

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ALABAMA
3 NORTHEASTERN DIVISION

4 SONNIE WELLINGTON HEREFORD, *

IV, et al.,

5 Plaintiffs,

6 vs.

7 HUNTSVILLE BOARD OF
8 EDUCATION,

9 Defendant.

5:63-cv-109-MHH

January 21, 2022

1:00 p.m.

Birmingham, Alabama

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11 TRANSCRIPT OF VIDEOCONFERENCE HEARING
12 RE: DAC REPORT
13 BEFORE THE HONORABLE MADELINE HUGHES HAIKALA
14 UNITED STATES DISTRICT JUDGE

15 * * * * *

1 For the Plaintiffs: John Mark Debro
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14 J.R. Brooks
15 Zachary Braden Roberson
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19 Also Present: Christie Finley
20 George Smith

21 Court Reporter: Leah S. Turner, RMR, CRR
22 Federal Official Court Reporter
23 1729 5th Avenue North, Room 210
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25

1 This cause came to be heard and was heard on the
2 21st day of January 2022, before the Honorable Madeline Hughes
3 Haikala, United States District Judge, holding court for
4 United States District Court, Northern District of Alabama,
5 Northeastern Division, in Birmingham, Alabama.

6 Proceedings continued as follows:

7 P R O C E E D I N G S

8 THE COURT: Good afternoon, everyone. We are here
9 today in case 63-109. This is Hereford versus the Huntsville
10 Board of Education, and we are here to discuss the DAC report
11 and the superintendent's response to the report. Thank you
12 all for being available this afternoon.

13 Is the United States ready to proceed?

14 MS. HAMILTON: Yes, Your Honor.

15 THE COURT: Mr. Debro, are you ready?

16 MR. DEBRO: Yes, Your Honor.

17 THE COURT: And is the board ready to proceed?

18 MR. PAPE: Yes, Your Honor.

19 THE COURT: Very good. The Court has reviewed the
20 DAC's report and the Court has reviewed the superintendent's
21 response, and I thought maybe it would be best for us just to
22 walk through that response, through the report and response.
23 And, Mr. Pape, maybe the best place to start before we dig in
24 to the report is introductions. There may be some
25 introductions you would like to make this afternoon.

 MR. PAPE: Yes, Your Honor. Thank you very much for
the opportunity to do that. In trying to make sure we balance

1 the technological aspects of having a Zoom hearing, just for
2 the sake of the court reporter, we do have a few of us in the
3 same room, thus the mask, and so we are going to try to use a
4 single mic coming through my screen if possible, if anyone
5 else needs to speak. If that doesn't work or we're not loud
6 enough, we're happy to pause briefly to make sure we can get
7 the people unmuted correctly without having the echo sound if
8 at all possible. So I just wanted to put that on everyone's
9 radar that we will try to navigate that.

10 THE COURT: Thank you.

11 MR. PAPE: As far as introductions, we have two of
12 the district team with us today. We have the superintendent
13 Ms. Christie Finley, who is present, to participate in our
14 meeting today, and we also have Dr. George Smith, who is the
15 chief student equity officer. He is also present here today.
16 I know that the Court has met with Ms. Finley in the past,
17 both in her previous role and in her current role, but I don't
18 believe -- although the Court has read testimony through
19 affidavits from Dr. Smith in the past, at least as to the
20 transportation motion for unitary status, but I don't believe
21 that Dr. Smith has ever had the opportunity to actually be
22 before the Court in any official proceedings, so I think this
23 is his first time.

24 THE COURT: Very good. I guess one other just
25 preliminary matter, Ms. Finley pointed out in her response and

1 I think the DAC did a good job of acknowledging in its report
2 that the past couple of years have been extremely challenging
3 for the Huntsville school district as they have been for every
4 school trying to operate in the midst of the pandemic, and so
5 the Court certainly recognizes that and understands that
6 information that is available to the Court in both the
7 district's annual report and in the DAC conversation with the
8 district is going to be impacted by all the different ways in
9 which the pandemic has affected education.

10 The Court also recognizes that the district,
11 unfortunately, to add to a difficult situation, the district
12 was the victim of a cyber attack in the past school year and
13 that that impacted the district in various ways. Perhaps the
14 most significant, for purposes of our conversation, is the
15 district's ability to process applications for M-to-M
16 transfers.

17 So the Court is sensitive to those two issues and
18 believes that we still can have a constructive conversation
19 about the information in the DAC report, with all of us
20 recognizing that the pandemic to the greatest extent and the
21 cyber attack to a lesser extent are factors in everything that
22 we are seeing this year.

23 So if there are any other preliminary matters,
24 preliminary remarks that anyone would like to make, the floor
25 is open, so please let me know if anybody would like to speak.

1 All right. Well, why don't we, then, just walk
2 through the report.

3 Mr. Pape, were you planning to take the lead today?

4 MR. PAPE: Yes, Your Honor.

5 THE COURT: Then I will hand this over to you.

6 MR. PAPE: Your Honor, I'm happy to take the factors
7 in the order of the report, but I thought potentially it might
8 make more sense -- I expect that there will be a couple of
9 factors that will be briefer in discussion and then maybe a
10 few that, just given the history and recent events, might take
11 a bit longer. If the Court is okay with maybe jumping around
12 just a little bit, we may try to start with the less detailed
13 factors or the issues that I expect will take less time.

14 THE COURT: That's fine with me. Is that okay with
15 you, Ms. Hamilton?

16 MS. HAMILTON: Yes, Your Honor. That's fine.

17 THE COURT: Mr. Debro, is that all right with you?

18 MR. DEBRO: Yes, that's fine with me, Your Honor.

19 THE COURT: Sound good. All right. Mr. Pape?

20 MR. PAPE: Thank you, Your Honor. The first factor
21 that we wanted to highlight was the student assignment factor.
22 This is one that the DAC identified both some positives
23 related to the M-to-M and magnet processing, and they also
24 raised concerns pertaining to the growth in the district, I
25 think were two of the major issues, and I think I can speak

1 briefly to those.

2 The Court has already recognized in the opening
3 remarks the major impact that the district felt for student
4 assignment was unfortunately the ill timed -- I don't know if
5 there's ever a good time, but the ill timed cyber attack in
6 December of 2020. That did cause the data that we reported in
7 November on behalf of the district to be different than what
8 we have reported in the past. It was impacted, and largely
9 where the impact was felt were in those mechanisms and
10 safeguards that the district has in place to minimize families
11 applying for schools that either were likely to be full or
12 maybe were not otherwise qualified for, which is more of an
13 issue that we had -- it's hard to say this -- maybe closer to
14 9, 10 years ago when we were looking at this data before we
15 got in the habit of having these systems in place that we have
16 now.

17 I'm happy to say that I think that that will be a
18 one-year problem, and confirming with Dr. Smith and other
19 members of the district team, the process of receiving M-to-M
20 applications this year and magnet applications this year
21 should be back to normal. The vendor that helped us
22 originally design the M-to-M and magnet transfer website has
23 helped the district recreate that, and they said that
24 outwardly facing, it should feel similar to families and the
25 district. It's supposed to be better than before. So

1 hopefully it's easier to pull the data and process for the
2 district, but I believe the safeguards are back in place, and
3 we expect that those same issues that were present in the
4 '20-'21 school year will not be present moving forward. So we
5 think that's good news. Unfortunately we were not able to fix
6 it mid year last year, but we were able to correct it this
7 year.

8 Another issue that the DAC raised was about student
9 growth and population growth, and that is an exciting issue to
10 have for the City of Huntsville. It has been exciting for
11 several years but it's also one that is a challenging issue.
12 Not to belabor the point, but as I'm sure the parties can
13 imagine and are aware of and the Court can be similarly,
14 there's a lot of coordination that goes between the district
15 and the City and even the Chamber of Commerce and other
16 entities that are responsible for helping bring new business
17 to the area and get new jobs to the area.

18 The district also has been working with a
19 demographer for many years, Cooperative Strategies. They have
20 had some of their representatives appear earlier in this
21 matter and they have been helping the district with
22 assessment, accountability, individuals like Dr. Smith with
23 typical demographic approaches which look at things like live
24 births and where we might see natural growth.

25 The problem has been and the difficulty has been

1 that certainly gives us a trajectory of where we might grow,
2 but it doesn't account for an overnight announcement from the
3 chamber where we add 2000 new jobs and where those individuals
4 may live.

5 But the district has been working both on a round of
6 potential -- I say potential. I know the superintendent would
7 love to not call these potential and would love just to be
8 able to move forward with improvements, long-term facilities
9 planning, things like 5, 10, 15 years down the road, looking
10 to see where we might have people moving and what buildings
11 need to be refreshed, et cetera, but the district is really --
12 a goal for this calendar year, '22, is to take what the
13 superintendent believes is instructionally appropriate and
14 also embed those other layers, those other components, working
15 with the City leaders, where we think the growth will be and
16 how we can stage a long term plan.

17 The district had some sad news in December but also
18 a pleasant surprise that came out of that. The district's
19 CSFO accepted a job in private industry in December, which is
20 Mr. Dustin Daehn. He had done a great job for the district
21 over the last year and a half, and we were very sad to see him
22 go. That's one of the downsides of Huntsville growing as it
23 does. There's a lot of competition for jobs. But the
24 pleasant surprise out of the change was that the district
25 added Mr. Andy Craig, who was the deputy superintendent of

1 finance for the State department and he has now joined the
2 district's team as CSFO. So he brings with him a wealth of
3 experience as former superintendent and finance director in
4 Hoover as well as his time in the State department. So I
5 think he has a lot of experience with helping with long-term
6 planning, and so his joining of the team is well-timed to be
7 able to help with this process. So it's still in the early
8 steps of being able to have a plan, a longer term plan, done
9 for facilities, but it's not -- we're talking about student
10 assignment, but I think you can't talk about one without the
11 other when we have the growth that we have.

12 So I just wanted to put that on the Court's radar
13 that we did have this turnover, but we don't think we're going
14 to see like we may have in the past some of our turnover, the
15 interruption or the concerns about finance, because Mr. Craig
16 has already joined the team. He has been on site now I guess
17 going on three weeks. He has hit the ground running. He is
18 already familiar with some of the issues that the district had
19 with finances because he was part of the team from the State
20 that came in to help when we had the financial concerns three,
21 four years ago. So it's just very fortunate. If you have to
22 have turnover, this turned into a positive situation.

23 So, to us, that's kind of a high-level response to
24 some of the concerns raised by the DAC in that section, and
25 I'm happy to answer questions or help facilitate the answering

1 of questions if the Court or any of the other parties have
2 any.

3 THE COURT: All right. Ms. Hamilton, anything for
4 the United States with respect to student assignment?

5 MS. HAMILTON: Yes, Your Honor. Before I get
6 started, I realize that I would be remiss to not just mention
7 that we appreciate what the DAC put into the report. As we
8 were looking at their analysis and review of data and their
9 discussion of complaints that have come their way and other
10 information, it was very apparent that they put a lot of time
11 into these reports and presenting to the Court very thoughtful
12 and well-rounded analysis of the issues that were presented to
13 them, and that's true for student assignment but also for many
14 of the other areas.

15 THE COURT: I'm going to interrupt you real quickly
16 just to echo what you said, Ms. Hamilton, and to acknowledge
17 that looking at everybody who is assembled here today, I
18 realize that there's a space missing, and that's my fault.

19 There should be a representative of the DAC with us
20 today, and so I will try to make sure that I don't repeat that
21 mistake in the future, because since the superintendent is
22 here, since Dr. Smith is here, it would be very appropriate to
23 have a DAC representative as well, and I'm sorry I didn't
24 think of it earlier.

25 I apologize for the interruption. Please go ahead.

1 MS. HAMILTON: No problem at all, Your Honor. So
2 with regard to student assignment, we appreciate the
3 discussion that the DAC concluded in their report. For the
4 M-to-M program specifically, our general takeaways are very
5 similar to those of the DAC and that Mr. Pape just shared.

6 With regard to the cyber attack, the school district
7 did bring that issue to our attention as soon as it happened,
8 and we engaged in several conversations and discussions about
9 what impact basically their computer system being taken off
10 line had on both the M-to-M program as well as the magnet
11 program, and we asked that the district continue to keep us
12 updated, but we were made aware of the fact that the timeline
13 for M-to-M process can be delayed, that the software that they
14 used would no longer be available and that they would have to
15 work and find an alternative in a short period of time, and we
16 recognize that it may have impacted some aspects of the
17 selection process.

18 One of the things that we saw in subsequent data was
19 that the number of students was a rising difference compared
20 to prior years. In fact, in the '19-'20 school year one of
21 the things that were highlighted was that for the first time
22 the district did not provide any school to this space. So we
23 did want to bring that to the Court's attention.

24 We also understood that due to the switch to a
25 different computer system, the district encountered an issue

1 where the system had accidentally extended offers to a few
2 students at select schools where the schools didn't actually
3 have capacity for those students, and in subsequent
4 conversations with the district they confirmed that was the
5 case, but also shared that because that was an issue that
6 wasn't the fault of the students, they went ahead and granted
7 the students those spaces notwithstanding the fact the schools
8 were over capacity.

9 It is our understanding in recent conversations with
10 the district that for the upcoming school year, the current
11 M-to-M application process is under way. I believe the window
12 either just closed or is about to close, in fact, and that as
13 far as the district understands, things are proceeding much
14 more normal compared to this past school year.

15 With regard to capacity issues, the things that
16 Mr. Pape just shared regarding several of the schools being
17 over capacity and the district experiencing growth is accurate
18 within our assessment as well. I think in the facilities
19 conversation, this may come up more, but one of the issues
20 that have been brought to our attention was that the district
21 felt the need to utilize modular units this school year when
22 it had moved away from that practice. The superintendent
23 actually mentioned in her -- I think it was in the cover memo
24 of the annual report, and you also heard it in recent
25 conversations with the district, that those modular units have

1 not actually been utilized this school year. And, again, I'm
2 sure we will get into that discussion later, but it's our
3 understanding that as a work around the over capacity issues,
4 that's a short-term solution while the district continues to
5 explore long-term solutions that will also be helpful.

6 THE COURT: Thank you, Ms. Hamilton.

7 Mr. Debro, anything for you on student assignment?

8 MR. DEBRO: Nothing at this time, Your Honor. I've
9 been monitoring as well, but a lot of the information we have
10 had has been limited, but I've been keeping up with the
11 reports and just kind of staying abreast of what's going on
12 and the gains that the district is making, but I will reserve
13 some comments for later on after the report.

14 THE COURT: All right. I will just say as a general
15 comment, it likely will be something that we will circle back
16 to later. Because it's appropriate for this Green factor, I'm
17 going to say it, but it's probably something we can discuss as
18 a broader issue later in our conversation.

19 But, Superintendent Finley, in your response to the
20 DAC's analysis on student assignment, you indicated that you
21 felt like the DAC didn't understand the requirements of the
22 consent order with respect to student assignment and that that
23 misunderstanding may have led to some inaccurate analysis on
24 the part of the DAC, and what I read in the DAC report that I
25 think may be the broader issue that may be worth discussion is

1 that the DAC actually acknowledges that the consent order is
2 difficult to understand in several respects. It is a highly
3 detailed order that has many requirements, and I think the DAC
4 is interested in the district communicating the obligations
5 that it has under that order in a way that's available to as
6 many people as possible and not just lawyers who have been
7 entrenched in it for years and administrators who have been
8 responsible for implementing it. So I will just leave that
9 there and we can perhaps circle back to it later in our
10 conversation.

11 Mr. Pape, which Green factor do you want to turn to
12 next, please?

13 MR. PAPE: Yes, Your Honor. I think the next one
14 that we would address would be extracurricular activities. I
15 will just do the same type of approach here and highlight some
16 of the big pieces. I think that extracurricular activities is
17 actually similar to a statement that the Court just made as
18 well. And actually there's a few spots, and I think this
19 might be what the Court intended in terms of circling back
20 around. I think it is a helpful discussion because I do
21 think -- there was actually an earlier discussion that we had
22 related to Highlands with the Court in the fall, and I will
23 kind of jump ahead to that because I think that that might be
24 an underlying theme throughout our response.

25 I do want to acknowledge again, once again, that I

1 think the board in its -- or the superintendent in the
2 response prepared to the Court, in rereading it, understands
3 exactly what the Court meant. I think before when we were
4 talking about Highlands, it may be that notwithstanding that
5 the district -- we felt like we were providing accurate
6 information, but maybe we had missed the mark on tone in terms
7 of a response. And I think and as an important part and maybe
8 when we close out the Green factor, if there's a discussion,
9 an opportunity for the superintendent to speak more directly
10 about it, I think part of the issue -- and I took that
11 criticism back to the district and I think it's well taken in
12 terms of tone, because it is apparent in a few different spots
13 in the, I think, DAC's reports, which a lot of effort went
14 into, but they are -- as Your Honor pointed out, they are not
15 lawyers that have worked on this for nearly a decade and have
16 had experience with it and administrators who have been trying
17 to work on it, and so there is an opportunity for, I think,
18 clarifying what the requirements might mean or how we are
19 working to achieve equity even if the terms of the consent
20 order themselves get a little -- may lead to people talking
21 past one another.

22 So I do think in some of the formal response that
23 goes into the filings, since it does go on the record, I do
24 think sometimes and maybe that the framework -- this is just
25 the framework that the parties came up with in the consent

1 order. I do think that sometimes this framework actually ends
2 up leading to more of a formal response since it does have
3 that -- it is on the record, and trying to preserve the
4 aspects as best as possible, and it doesn't actually do a
5 great job, at least the couple times I've been privy to be a
6 part of the superintendent's communications with the DAC when
7 they actually have their face-to-face or their Zoom, I don't
8 think that these reports actually do a great job of capturing
9 what that real dialogue looks like. It's typically a lot more
10 congenial than you might get in reading the -- you know, here
11 is the document, here is the formal response.

12 And so I think that's evident in several sections
13 where the district might have been a little more formal in its
14 response and maybe the tone would not be -- does not
15 adequately reflect or accurately reflect what I think the
16 relationship might be, and I think in this section is another
17 situation where I think the district took some exception to
18 the characterization of the DAC saying that there's some
19 inequity in the clubs when the district wants to defend its
20 position because it believes it has been trying to be
21 equitable in its clubs. And there are some things that we
22 want to talk about, some internal criticisms, that the
23 district has been addressing with itself in trying to address
24 the clubs, but I just thought that was an overarching comment
25 that is probably worth making earlier in this presentation.

1 So with that, I can -- I sort of derailed, and
2 I apologize. Back to extracurricular activities. A couple of
3 the major issues that the district identified, it realizes --
4 and Dr. Smith has done a lot of work on this with Mr. Scott
5 Stapler, who is the district's coordinator of extracurricular
6 activities and athletics. And there has been some difficulty.
7 I think extracurricular activities in large respects -- the
8 data does not actually do a fantastic job, and this is on the
9 district, but it has not done a great job of capturing some of
10 the efforts and gains made in extracurricular activities. And
11 what I mean by that, it is not easy with some of the State
12 data tracking mechanisms that the district has available to it
13 to accurately capture how some of these clubs -- how often
14 they are meeting and the number of students participating,
15 just due to the fluid nature of how some of these clubs meet,
16 especially at the younger grade levels. It's not always just
17 every day this club meets at a certain time. It may only meet
18 a couple times a year, and we're relying on teachers to track
19 information.

20 So there has been a major focus at the district
21 level to make sure that those clubs are aligned in the consent
22 order and also aligned to any instructional programming,
23 anything that goes with the district's mission or strategic
24 plan, that the district makes sure that its data is focused
25 and accurate, because when we get these self-reported other

1 clubs from some of the schools, the district knows that
2 there's some other clubs that are meeting at some of these
3 schools but the data is not being kept, and so when we end up
4 reporting each year, we don't -- it makes it look like the DAC
5 put out in its report that there's only a couple of these
6 other clubs at certain schools that we know have more clubs
7 than that but we don't have data to support it because the
8 teachers did not, in everything else they have going, did not
9 give us great data, and it's not necessarily -- that's not to
10 blame the teachers at all. It's just we're trying to find a
11 way of how do we take the load off the teachers to streamline
12 this process.

13 We expect that the reporting for the upcoming year
14 will look different and have some -- hopefully some backup
15 data that we can show how we changed the processes this year
16 to track that data throughout the year and try to improve that
17 process to accurately depict what the schools are actually
18 doing, hopefully alleviate some of the confusion that if the
19 DAC members don't have better data, then how could they know
20 what's going on, and if they have those concerns, we want to
21 be able to show that we're actually providing these
22 opportunities for students.

23 So that is a major component of the district's work
24 this year, is doing a better job of actually capturing what we
25 believe is happening in schools related to clubs in a way that

1 is not confusing and is more accurate to the Court.

2 There were a couple of instances raised, one or two,
3 at the end of the extracurricular section that we also want to
4 point out related to possible race discrimination in the DAC's
5 2020-'21 report, I believe. The district did not find any
6 evidence in any of its records about which specific student
7 this might be. There wasn't a complaint raised at the school
8 that year. That said, we have been in communications with the
9 United States, have talked to them that we would like to have
10 one of our liaisons be able to communicate with the DAC to see
11 if they could give us anymore information without violating
12 the confidentiality of the individual who raised the concern.

13 It will likely be Dr. Smith who will work with the
14 DAC to see if we can get that information, because we want to
15 be able to address it. We also don't want to undermine the
16 confidence in the process, but we don't have that information
17 about who that might be. So we just did want to let the Court
18 know we aren't ignoring that situation. We are trying to get
19 to the bottom of it in a way that it doesn't put the DAC in a
20 bad light or make them have to give information they are not
21 comfortable with giving.

22 So I think those would be the high level things, our
23 high level concerns for extracurricular, subject to any
24 additional questions and concerns.

25 THE COURT: Ms. Hamilton?

1 MS. HAMILTON: Your Honor, the United States also
2 independently reviewed the extracurricular activity data
3 information for the '18-'19 and '19-'20 school years during
4 this time frame, and one thing I will note at the outset is
5 that the district is in compliance with the provision that
6 requires that schools offer a baseline number of clubs or
7 activities, both elementary and secondary level. So as the
8 DAC noted, one of the issues is that to the extent that
9 schools are offering activities beyond that core number, as
10 they should, that there are disparities in what's being
11 provided throughout the district.

12 As Mr. Pape noted, one of the areas where we've had
13 conversations with the district is ensuring they have accurate
14 data of what is being provided at these schools and also what
15 the participation rates look like, and that way they can also
16 better support these schools to ensure that schools that
17 aren't offering a wide array of opportunities are able to
18 better target the needs of their students and provide as many
19 opportunities as they can.

20 Similar to that, Your Honor, we have also noticed --
21 and this goes beyond the DAC's report, but the fact that
22 participation rates have been dropping, taking into account
23 this past school year and the end of the '19-'20 school year.
24 I believe the superintendent may have mentioned this in her
25 response, but we understand that the implications of Covid and

1 students not attending school in person had a very large
2 impact on students being able to participate in
3 extracurricular activities, which is understandable.

4 With that said, to the extent that some of those
5 participation rates were still concerning, we certainly
6 continue to encourage the district to analyze why that is. We
7 also wanted to note that we really appreciated -- I believe it
8 was in the '19-'20 DAC report, the DAC's comments where they
9 articulated reasons why it is important that this is given
10 priority. I should say increasing participation rates is a
11 priority. And one of the things that they noted is that these
12 clubs are a great tool for students to gain confidence and
13 social skills, but they also link back to the fact that if
14 students are participating in math club and other related
15 activities in elementary and middle school, they are much more
16 likely to enroll in honors and AP when they get in high school
17 because they are being exposed to these more challenging
18 opportunities.

19 And so we thought that was really helpful insight
20 that the DAC provided as well as suggestions that they
21 offered, and we wanted to point that out to the Court, and
22 also just point that out to the district that we found that
23 very valuable.

24 And the last comment I would make is just
25 reiterating Mr. Pape's points at the end relating to the

1 complaints about the athletics teams and the fact that we are
2 interested to learn more about what happened, and we
3 appreciate the district's efforts to see if we can get more
4 information from the DAC.

5 THE COURT: It sounds like, Ms. Hamilton, that you
6 may be the person or someone on your team may be the right
7 person to begin a conversation with the DAC to see whether
8 there is additional detail that the parties can then use to
9 try to understand those situations better, so thank you for
10 any work that you do in that regard.

11 Mr. Debro, anything for you?

12 MR. DEBRO: Nothing at this time, Your Honor, other
13 than the fact that we are still monitoring this and getting
14 some community feedback on the matters related to the
15 extracurricular activities and the clubs on how things have
16 changed, and I know Covid has affected a lot of the response
17 and a lot of the activity of the students, but we will
18 continue to monitor what is going on when it comes down to the
19 offerings, because it appears that there's still some
20 inadequacies that we need to work on, so we will keep working
21 on our end to get some additional information on that that we
22 can share with the district and find out from the DAC as well.

23 THE COURT: All right. One thing that I read -- and
24 you all can correct me if I'm wrong. Sometimes I read and
25 then I confuse things in paperwork, so if I've done that here,

1 let me know. But first of all, the district has fulfilled its
2 baseline obligation under the consent order, so that's
3 terrific that the district is doing that, but I believe part
4 of the district's response to the issue of club participation
5 and just the scope of the different extracurricular activities
6 that are available in schools across the district was, well,
7 we want to be sure that we are providing clubs that are
8 responsive to the student's interests. And that certainly is
9 a factor that is appropriate for the district to take into
10 consideration, but in the context of these desegregation
11 cases, that approach can sometimes be a slippery slope.

12 You know, when we started our conversation in this
13 case years ago when I first became involved, one of the
14 comments about the disparities in AP courses was, well, the
15 students in certain schools aren't asking for AP courses and
16 so we're not providing them because there's no interest. If
17 students don't know what opportunities are available to them,
18 if students aren't told, hey, you might enjoy this type of
19 club or that type of club, they aren't going to ask, because
20 they simply don't have the experience and the information that
21 would cause them to ask.

22 There was a comment about being responsive to what
23 people want in discipline in terms of training. There was a
24 comment along those lines I believe also with respect to the
25 extracurricular activities, and I just think that's something

1 everyone should be sensitive to.

2 Mr. Pape, what's next, please?

3 MR. PAPE: Yes, Your Honor. As I was going back
4 through my notes, not to belabor extracurriculars, I would be
5 remiss -- I think I left off an important point. The
6 district -- the earlier conversation about extracurricular,
7 the point is well taken from the Court. I do recall the
8 incident the Court is talking about, about AP courses and how
9 that can be a potential for problems. I did neglect to
10 identify -- and I know the parties looked over -- the high
11 schools, I think, are a better representation where the
12 district has had success in meeting the needs but without
13 having the number of club opportunity problems that we see at
14 the lower grade levels, and I should have emphasized that a
15 little bit more. I'm really talking about the lower grade
16 levels and tracking that information, whereas the higher grade
17 levels -- and I think the DAC acknowledged that you can look
18 and see a school like Jemison offering 56 clubs compared to
19 Huntsville High School identifying 51 clubs. Years ago that
20 would have been unheard of.

21 So I do think we have a model that could work and is
22 working with our older students. It's just about trying to
23 see if we can get that with the younger students. I wanted to
24 make sure that I identified that, that we do acknowledge that.

25 The next Green factor we have identified was faculty

1 and staff. And for this factor, a couple of points we wanted
2 to address generally about the -- it's related more to the DAC
3 report, but then also we know that in some of our earlier
4 conversations that the parties themselves have also raised
5 concerns about teacher retention, so we're going to put that
6 in this discussion as well for faculty and staff.

7 But taking faculty and staff at a high level, I
8 think the district agrees with the members of the DAC and I
9 just know anecdotally -- and I don't want to speak for the DAC
10 members because they are not present, but I do know at least
11 anecdotally that Mr. Gregory has spoken at least to one of our
12 board members and even expressed some -- he is the current DAC
13 chair -- expressed some interest in knowing where the district
14 was in attempting to pursue unitary status in faculty and
15 staff.

16 The district has publicly -- I have spoken publicly
17 with the board and we did identify faculty and staff as a
18 factor. We are currently working on a draft motion that we
19 plan to share with the United States in the coming weeks. I
20 just wanted to let the Court know that that has been a focus
21 of ours, was putting that motion together in a similar
22 fashion, if at all possible, to how we presented the
23 transportation information.

24 Obviously, that's merely for update purposes. The
25 district feels like given its Singleton ratio, its principals

1 and the other aspects of that factor, the district does feel
2 like it is in a strong position and has met its requirement.
3 Obviously, we will see where we go from there in working with
4 the United States, but I would be remiss not to mention that
5 there has been some discussion about that, and I believe the
6 DAC members and Mr. Gregory was aware of that. I think he has
7 been tracking the board meetings and purely anecdotally
8 appeared to have a positive conversation with one of our board
9 members about our consideration of that. That doesn't
10 necessarily mean anything. I just wanted to put that on the
11 Court's radar that there is a dialogue about that.

12 That said, there was some good points and some
13 concerns raised by the United States and Mr. Debro in some of
14 our conversations related to teacher retention, and I wanted
15 to speak briefly about some of the steps that the district is
16 taking related to teacher retention. I think some of these
17 steps would likely -- in a motion as we're preparing it would
18 likely -- it would appear in kind of a future good faith
19 section of a motion, but just to preliminarily discuss them
20 for today's purposes.

21 An interesting statistic was that starting '17-'18,
22 that school year, and Ms. Finley actually took over the
23 superintendent, interim superintendent, and --

24 THE COURT: Can I interrupt you for one minute,
25 please?

1 Sorry about that, Mr. Pape. Go ahead.

2 MR. PAPE: Oh, no problem. The superintendent
3 actually took over being interim in '18, so the first
4 statistic was right before she started as interim before
5 becoming superintendent, but the retention rate that we report
6 as part of our now strategic plan where we look at retention
7 of teachers was 79 percent, 79 percent retention rate. That
8 number improved to 85 percent the next year, and then 89
9 percent. So almost 90 percent retention rate for the '19-'20
10 school year. Then unfortunately we did see a dip down to
11 '20-'21 where the rate went back down to 81 percent.

12 So we were seeing momentum, roughly 79 to 89 percent
13 over a couple of years, and then we did lose some momentum
14 after that year of Covid, full year of Covid instruction. And
15 so we think on our end, the superintendent's team has
16 identified why they think that are having that success, and
17 one of the main reasons was the previous administration had
18 made more common use of nonrenewals for teachers in their --
19 more often than not their first year if they were not
20 appearing to be a strong teacher.

21 The district under Ms. Finley has implemented
22 coaching plans for the teachers that likely in the past, maybe
23 under a different leadership, would have been nonrenewed. And
24 so what we've seen, though, is that that investment in
25 coaching, the superintendent's team, they think they have seen

1 that investment pay off in a higher retention rate and fewer
2 teachers either being nonrenewed or leaving.

3 That investment from the district and the plans put
4 in place by the principals, that's now a requirement. If the
5 teacher is going to be nonrenewed before they are able to earn
6 tenure, the superintendent expects to see where that teacher
7 has been coached, where they have had their issues identified,
8 and that the principals have tried to be instructional leaders
9 in that school and help them. So that, we think, was a very
10 important retention piece leading up to Covid.

11 That game has changed a little bit, and I don't like
12 to keep coming back to Covid as a game changer, but I think
13 it's important to acknowledge that that did lead to a lot of
14 teachers making retirement decisions and resignation decisions
15 likely due to health reasons and safety concerns as well as
16 stress reasons. We know that that's impacting education as it
17 is impacting most every field, I think, in this country.

18 But that said, there are some things that I think
19 bear mentioning related to teacher retention. One of them is
20 a relatively new development. There's a company in Huntsville
21 named RippleWorx that has worked previously with the
22 Huntsville Police Department, Huntsville Hospital, at least
23 locally, and they have some other clients as well, and what
24 they focus on is -- and this is going to be my sort of
25 inartful explanation, but almost like a daily pulse of morale

1 from your team, your employees. This is focused on employees,
2 not students. And they have different systems and procedures
3 that allow sort of daily and weekly check-ins about what are
4 the issues that are causing morale concerns. And they
5 specialize in front line workers. Like I said, they work with
6 police departments, hospital workers.

7 So the superintendent has actually worked to build a
8 collaboration with this company to apply those same processes
9 to front line education workers. It's impossible to say that
10 the education team is not a front line worker.

11 This is a very new, like, last couple of weeks,
12 entered into an agreement with RippleWorx to start this
13 semester, and that's a big -- that's something the team is
14 very excited about trying to find more ways to hear from staff
15 about what are the true things that are causing them that
16 daily stress that may be simple fixes or just touch points
17 could help the district especially as we get into that April,
18 May, June, July, which is where you see a lot of the retention
19 issues manifest. You don't see it necessarily as much mid
20 year. I mean, we have seen it, but not like you do at the end
21 of the year.

22 There are a couple of other things that I think the
23 district has implemented this year that are worth noting to
24 the Court. During the fall, the district tried to find a way
25 to provide both additional investment in all of its faculty

1 and staff, both financially and professionally, and they
2 developed a program of Professional Learning Academy, PLA, is
3 a system that the district has used to offer additional career
4 development that we could tie and have tied to things like
5 positive school climate, culturally responsive teaching,
6 implementation of PBIS and using data for your certified and
7 for classified -- there have been different topics that are
8 more appropriate for your nonteaching staff.

9 But by completing these, you get high quality
10 professional development plus a significant two to three
11 thousand dollar or fifteen hundred to three thousand dollar
12 range, depending on the different category, extra compensation
13 for your time. So trying to do things that other districts
14 were not doing to try to encourage folks to stick it out and
15 stay with the district despite this difficult time, and I
16 think that that has been a fairly universally popular process,
17 has been successful. Of course, like I said earlier, we hope
18 to see that success pay off in April, May, June, when teachers
19 are making that determination about what district they are
20 going to teach at next year. But that investment, we think is
21 important.

22 Then there's also just simple things that don't
23 necessarily cost a lot of extra money, but the district has
24 tried really hard to emphasize and celebrate its teachers of
25 the year, any of its teachers that become nationally board

1 certified. The district has a huge partnership with an entity
2 in Huntsville that is helping to fund national board
3 certification so that those teachers get that opportunity
4 without having to invest their own money in that process. And
5 just simple things like celebrating those individuals for
6 their accomplishments. And also in the case of the teachers
7 of the year, those individuals have actually been added to the
8 superintendent's -- one of the superintendent's advisory
9 committees so that their voices can be heard as leaders in
10 their school directly with the superintendent. I believe she
11 met with them recently.

12 So just things like that, the district has really
13 been trying to invest. Teacher retention has just been a core
14 component, part of the strategic plan, part of the goals for
15 the superintendent. And so notwithstanding the district's
16 excitement and efforts of trying to prove that it is ready to
17 go to unitary status hopefully to the Court, the
18 superintendent acknowledges that that doesn't -- that's not
19 the end of the struggle by any stretch, and ensuring that we
20 have high quality teachers at school and making sure that they
21 feel valued.

22 So I think that those long-term plans and retention
23 are an important component. But I'm also, again, happy to
24 answer any other questions or followups after that.

25 THE COURT: Thank you, Mr. Pape.

1 Ms. Hamilton?

2 MS. HAMILTON: I will give my colleague, Kelly
3 Gardner an opportunity to respond.

4 MS GARDNER: So, Your Honor, in response to some of
5 the issues that were raised by the DAC, I will just note at
6 the outset that each year the United States takes the very
7 comprehensive information we get from the district related to
8 faculty and staff and we conduct our own independent analysis
9 of that.

10 We agree in large measure with the number of the
11 things that the DAC pointed out in the area of faculty and
12 staff, including that the district has made fairly substantial
13 progress on increasing the number of black principals that
14 exist throughout the district. One of the conversations that
15 we had with the district early on related to the imbalance in
16 the racial composition of principals within the district when
17 you look at that side by side with the racial composition of
18 assistant principals. We think we had some concerns about
19 whether efforts were being made and assistant principals were
20 being supported sufficiently so that they could continue
21 developing and advancing to the position of principal, and I
22 think what we're seeing now is that there has, in fact, been
23 an increase in the percentage of black principals in the
24 district.

25 I know that the DAC pointed out that there has been

1 a slight decrease in the percentage of black assistant
2 principals in the district, and I think one of the things
3 we're looking at is whether that's the beginning of some trend
4 or is that the result of assistant principals being elevated
5 and kind of progressing and moving out of that category.

6 On the issue of incentive pay, it sounds like the
7 district has decided to discontinue that. I know that
8 incentive pay has been something that we have obtained data on
9 and that our statistician looks at each year. Our
10 statistician tends to look at incentive pay from the
11 standpoint of examining whether there are any statistically
12 significant differences in the pay awarded to a teacher based
13 on whether that teacher is assigned to a predominantly black
14 or predominantly white high school, and there has not been in
15 recent years any sort of statistically significant association
16 in that respect.

17 Ordinarily if the district were to continue awarding
18 incentive pay, we certainly would look at some of the things
19 the DAC raised. If the district is not going to be awarding
20 any incentive pay, there won't be anything in that respect for
21 us to look at, but I know that that has historically been a
22 part of our analysis.

23 The other area that the DAC raised was the issue of
24 exigent circumstances, and I think there have been some years
25 where there have been at this point a small number of

1 interviews that teachers may have missed because of some
2 unanticipated circumstance. I think in at least one of the
3 years the DAC addressed, there were nine such interviews
4 missed.

5 This is an area that we also had quite a bit of
6 conversation about in the early years of the consent order.
7 The number of exigent circumstances used to extend into the
8 hundreds, and so at this point while we acknowledge that there
9 are a handful of interviews that were missed, that is, I
10 think, a relatively -- has been a relatively small percent of
11 the total number of interviews that have been conducted. I
12 think under two percent. It sounds like there may be some
13 change in the district where teachers are not currently
14 serving on interview committees. So I think we certainly will
15 look forward to hearing more about any change in that respect.
16 But I did just want to note that in general, while there may
17 be some small number of exigent circumstances, it is
18 significantly different than where we were when we started
19 this process.

20 There are two areas that are also addressed by the
21 DAC's report, the Singleton ratios and I think the DAC had
22 some comments about the complexity of the applicant data that
23 the district provides. We just note that -- I think it's
24 admirable that the DAC sort of has endeavored to take a look
25 at every single area. Certainly there isn't necessarily an

1 expectation on the part of the United States that the DAC
2 engage in statistical analysis of applicant data. That data
3 is incredibly voluminous. There are duplicate entries, and so
4 it really takes someone who is fairly experienced with
5 statistics and with Microsoft Excel to work with that data.

6 We do have a statistician on our staff who looks at
7 that data every year and breaks it down for us and tells us
8 about what the statistically significant findings are, whether
9 there are associations between the race of an applicant and
10 the likelihood of their being hired. So that's something that
11 the United States has tracked over time and continues to track
12 as we receive data from the district. So I just wanted to
13 note that while the DAC may not be able to do that, that is an
14 analysis that the United States undertakes every year.

15 I will allow Ms. Hamilton to add anything she wants
16 to your attention. I will just say that we appreciate hearing
17 from the district the initiatives that they are thinking about
18 in terms of working through this issue. It certainly is
19 something that we are seeing in many places given some of the
20 challenges that have been intensified in recent years, and we
21 look forward to working cooperatively with the district as
22 they sort of continue to think through and implement new
23 measures to try to stabilize and improve teacher retention.

24 I will just note that we understand that the
25 stability of the teaching force is an important part of the

1 district's work and it has consequences for many other Green
2 factors, including when it comes to academic programming and
3 students being able to access that when it comes to teachers
4 understanding and being trained and retaining knowledge in
5 terms of discipline and positive school climate. So certainly
6 we are interested in helping the district ensure that its
7 teaching force remains stable.

8 THE COURT: Thank you, Ms. Gardner.

9 Ms. Hamilton, is there anything you would like to
10 add?

11 MS. HAMILTON: I don't have anything to add, Your
12 Honor.

13 THE COURT: All right. Mr. Debro?

14 MR. DEBRO: Thank you, Your Honor. In reviewing the
15 reports, especially the one from the DAC, I have been noticing
16 some things as well as matters we've keeping up when it
17 relates to news reports as well as communications with the
18 community. There has been a morale issue and there has been
19 an exodus of some minority employees of the district. Some of
20 it may be related to retirement. Some just may be related to
21 disgruntled employees.

22 I know I've had various matters that I have been
23 able to work with Mr. Pape on on various administrators and
24 other positions on matters outside of this action here, and it
25 seems as though that those have exited from the district going

1 into other areas, whether they are minorities and are serving
2 in an administrative position, the district has replaced them
3 with other minorities in those positions. It's great to know
4 that the Department of Justice, United States, has information
5 where they can track data when it comes down to candidates for
6 hire because it would be helpful at some point in time to be
7 able to look at how that information has come about.

8 I know I have received information over time as
9 relates to employees applying for certain positions that have
10 been minorities and they have not -- they felt as though they
11 have not been given the opportunity to go ahead and move into
12 those positions. It would be helpful to have that information
13 to be able to compare that data with this information to make
14 sure that these are just not isolated incidents that these
15 particular people are going through.

16 I did notice that the -- still monitoring the
17 Singleton ratio as pointed out by the DAC when it comes down
18 to demographics of students as well as the teachers. It
19 appears that we currently are probably still at a flat area
20 when it comes down to that ratio compared to years past, but
21 we will continue to monitor that as well as the information
22 locally to see what we can do in comparison, but it would be
23 helpful to know the United States' information, what it has
24 when it comes down to data in comparison to the candidates for
25 hire as well as those that are leaving the system.

1 THE COURT: Thank you, Mr. Debro.

2 Mr. Pape, if you would, help us understand just
3 briefly. I noted in the superintendent's response what
4 Ms. Gardner mentioned and that is that teachers no longer are
5 part of the interview process. So help us understand who is
6 part of the interview committee and how the process is working
7 currently, please.

8 MR. PAPE: Yes, Your Honor. I believe I know the
9 answer to that. If I don't, if I get the answer incorrectly
10 I'm happy to turn it over to Ms. Finley.

11 I believe that part of the impetus of moving away
12 from having as many teachers participate on that committee was
13 in an effort to lessen some of the load on our teachers,
14 especially in light of the -- you know, the 2020-2021 school
15 year was exceptionally challenging and having to balance the
16 virtual students and along with the in-person students and
17 just everything in between.

18 So the whole point of -- going back to the earlier
19 days of the consent order, I believe the original idea was
20 this gave teachers who had an interest in earning some
21 leadership ability or just see what it's like to be on the
22 administrative side a chance to do so, and that is still an
23 important role and an important aspect of the superintendent's
24 plan.

25 I did forget to include one thing on my retention

1 list, and there's another -- it's called the ILA, which I
2 don't want you to get confused with the PLA, Instructional
3 Leader Academy, internal to -- Leadership Academy, internal to
4 the district's teachers. It's not like an external academy.
5 And I hesitate to even make this comparison, because it
6 doesn't come with the same -- it's not like an assistant
7 principal opportunity. There's not -- you're not placed in a
8 school or something like that. It's an actual academy for
9 those teachers who are interested in learning about what it
10 means to be an administrator and they can participate in this
11 program.

12 So while there's not the same opportunity to
13 participate in some of the interviews, there is this new
14 opportunity. Who is still participating in the interviews are
15 your district level administrators, and largely the reason why
16 the district has been able to minimize a lot of those exigent
17 circumstances at times when the district fell out of the
18 demographic makeup, that would approximate the district's
19 demographic makeup, is that we have a team led by the talent
20 management department who works with other district
21 administrators to make sure that we have a diverse pool of
22 individuals from our district's leadership to be able to
23 participate.

24 So there is still a diverse group of individuals
25 handling those interviews, but to my knowledge that was the

1 main reason for lessening the load on some of our teachers and
2 let them focus more on that aspect.

3 I don't know, Ms. Finley, if you have anything else
4 that you want to add.

5 SUPERINTENDENT FINLEY: I don't.

6 MR. PAPE: That is the answer to that question.

7 THE COURT: So if the interview committee is
8 composed of district level administrators, is the district
9 making sure that the black members of the committee are
10 sufficiently high in leadership that they feel comfortable
11 sharing their thoughts and giving their input in the interview
12 process? Because I can see a situation where, you know,
13 depending on who you select to be on the committee, the person
14 might qualify as an administrator but may not feel comfortable
15 fully participating in the interview process. So is the
16 district keeping an eye on that?

17 MR. PAPE: Your Honor, I would say they are. The
18 district is fortunate in that unlike some of our other matters
19 that our firm works with in other school districts that have
20 active desegregation matters that don't necessarily have the
21 diversity and teachers and leadership that Huntsville has,
22 notwithstanding the challenges and ongoing efforts that the
23 district has taken, the district is fortunate to have
24 diversity in its leadership from the deputy superintendent
25 down to coordinators that do also qualify, to chiefs that are

1 kind of a step below our deputies like Dr. Smith and others
2 that are on that tier of leadership.

3 So I believe that the district would -- its position
4 would be that we do have a diversity of leadership both in the
5 tiers of administrator and within those tiers themselves
6 diversity so that the individuals should be able to
7 participate and have some confidence.

8 I would not want to speak for all individuals.
9 There may be some intimidation if they are sitting next to a
10 chief or deputy and they themselves may be a coordinator, I
11 wouldn't want to say universally that that never occurs, but I
12 do think given the diversity at the central office, there is
13 opportunity for there to be a diverse group, skills and racial
14 demographics in those panels.

15 THE COURT: Thank you. What is the next Green
16 factor?

17 MR. PAPE: Your Honor, I think at this point the
18 last two or three items that we have identified could likely
19 be lengthier discussions, but the first one would be equitable
20 access or student achievement.

21 MR. DEBRO: Your Honor, I know this is out of turn,
22 but I wanted to have a followup with the district, if at all
23 possible, on the last area that we were just on.

24 THE COURT: Okay.

25 MR. DEBRO: If they would just explain a little bit

1 about the application process. Because it's not necessarily
2 interviews; it's the way the application goes through and
3 maybe persons are not getting interviews where they make it to
4 that level where the district is able to go ahead and move to
5 what they were just speaking of.

6 So I just wanted to be able to educate the Court
7 about the application process, because that is different as
8 opposed to the interview.

9 THE COURT: All right.

10 MR. PAPE: In lieu of attempting to explain the
11 whole application process, I do know that teachers apply
12 through the online portal and postings that the district have
13 places through. I believe it's called Teaching Alabama. It's
14 an online portal. It's part of the reason why -- going back
15 to an earlier issue that was raised. Part of the reason why
16 that applicant data is so cumbersome, and I do actually share
17 and understand the DAC's frustration with that data. It is
18 difficult. There are items that are duplicates. There are
19 items that appear to be duplicates but are, in fact, not
20 duplicates because they are for a different school that has
21 the same job title that someone would apply for, and so it is
22 frustrating, and I think there's not a great way to
23 necessarily capture that info in a way that also complies with
24 the Court's order.

25 But that said, Dr. Smith has reached out to the DAC

1 now that they have the reports and offered to sit down with
2 them. We share the United States' concern that we don't have
3 the expectation that they become expert statisticians and work
4 on every single report and try to discern what is
5 statistically significant. That said, Dr. Smith does try to
6 do that, and he does help the district with those type of
7 matters. So we're going to make him available and other
8 members of the team if they do have data questions.

9 But to the actual process, I know Dr. Smith has
10 actually been working on that process with us and as part of
11 our work in determining our readiness for unitary status, and
12 I think Ms. Finley can also speak a little more to that. So
13 if either of you all would like to speak to that, I'm happy to
14 let you speak to the Court instead.

15 Dr. Smith, would you like to go since you have been
16 looking at it recently?

17 DR. SMITH: Yes, sir, absolutely. Good afternoon.
18 I will backtrack for a second and just speak to the question
19 about the interview committees and kind of the dynamics on
20 those.

21 We are fortunate to be a large enough district where
22 we do have a good number of district level coordinators and
23 curriculum specialists. So when we're talking interviews that
24 the teachers are undergoing, typically you're not going to
25 have somebody like a deputy superintendent sitting on that

1 interview committee. Typically it's going to be individuals
2 who are curriculum specialists who are those coordinators who
3 have -- you know, not implying that there's necessarily a
4 power dynamic between us, but they would be more on kind of a
5 level playing field if someone looked at the outside structure
6 of the organization. And what they do is there's just a pool,
7 kind of, of those individuals and they just rotate different
8 days of when those screening committees are going to happen.

9 So, for instance, you know, the superintendent is
10 not going to be sitting on a screening committee of a
11 first-year teacher with, say, our curriculum specialist,
12 things like that. Hopefully that clarifies the question about
13 what those committees look like now that we don't have those
14 teachers involved in that process.

15 I apologize. What was the second question?

16 THE COURT: What is the application process for
17 teachers, please?

18 DR. SMITH: Okay. I can speak -- I will share the
19 DAC's comments about that it can be difficult to look at. As
20 a matter of fact, I'm looking at a lot of it right now over
21 the past four years as we prep that information. As far as
22 the candidates go -- I don't want to misspeak on that one.
23 I'm not as familiar as what happens up to the screening
24 process, but as Mr. Pape said, I know that they apply. I know
25 once they are screened, everyone is given that opportunity for

1 the application and then -- or, excuse me, given the
2 opportunity for the interview. The interview committee gets
3 together and they have a scoring that they do, and then based
4 on that score, if they are in a certain range, they are sent
5 to a school where there might be an opening.

6 I think Mr. Debro is asking about the piece between
7 applying kind of on an online system to the screening. Is
8 that correct, sir? I see a nod. I don't want to misspeak on
9 that. Let me see if I can --

10 MR. DEBRO: That's correct, as well as the
11 principals and assistant principals, because that was one of
12 the other issues that had come up.

13 DR. SMITH: Okay. On the teacher side, let me see
14 if I can do some digging and a get little bit more about that
15 step that happens between the application and kind of where
16 they actually get screened and moved to the interview of
17 teachers. I will make a note of that.

18 On the principal and assistant principal side of
19 things, when those postings come out, essentially what -- we
20 try to give preference to our local talent. So if you're an
21 HCS individual, I know that you are going to get screened.
22 They're going to go through and look at kind of the
23 requirements and things like that. And then that happens, I
24 think, for the majority of the external candidates as well.
25 Based on that, if they meet those requirements, then they kind

1 of go into a pool, and when openings come up, we go and we
2 look at that pool and they pull up individuals.

3 You might have a case where someone would interview,
4 say, a year ago, even maybe beyond that, two years ago, and
5 there wasn't an opening at that time, but they might be called
6 back in if that interview was still active. If they are still
7 interested in the position and asked, hey, okay, I know we
8 interviewed you sometime in the past but we have this opening
9 and we think it would be a good fit; are you still interested.

10 So the applicant pool for APs and principals is a
11 little bit more floating than I think it is for teachers.
12 There's also -- just keep in mind, there's not a ton of those
13 hiring that happens year to year, but I will say that's
14 actually the last piece of the data that I'm looking at is our
15 AP and our principal and some of the same concerns of the DAC.
16 I'm just trying to weave through and figure out exactly how
17 best to make sense of that data. I'm happy to share, once
18 that's completed, any information I have about that and I will
19 look into the other piece about the screening process.

20 MR. PAPE: Your Honor, if I may. It may be
21 helpful -- because I know that Ms. Finley works more -- to
22 Dr. Smith's point, and he is correct, I did blend those. The
23 superintendent's team, some of the deputies tend to work more
24 on the principal selection and interview process. If the
25 Court would like to hear more about that, it may be

1 appropriate if Ms. Finley could add a little commentary,
2 assuming you would like to have a little more discussion about
3 this.

4 THE COURT: That's fine. If Ms. Finley, if you want
5 to add anything to the information that is before us, please
6 go ahead.

7 SUPERINTENDENT FINLEY: Good afternoon, Your Honor,
8 Thank you for allowing me to join in today. First, I would
9 like to say the talent management has done an excellent job,
10 and I would also like to thank the DAC for the work they do.
11 I've said this many times in my previous roles. I thoroughly
12 enjoyed working as liaison with them, and I actually miss
13 that, but I have some ideas at the end, and maybe we can
14 circle back, and I know you mentioned that, Your Honor.

15 But in regards to assistant principals and
16 principals, I'm committed to rebuilding the bench from within.
17 And as you mentioned earlier, you have seen that we have hired
18 more black principals. We actually used those assistant
19 principals as a model to build the principal pool. But as it
20 relates to the screening process, so based on that job
21 description, the talent management team looks to see if those
22 applicants meet the qualifications; so do they have their
23 administrative degree, do they have years of experience as a
24 classroom teacher, and then they go through that screener and
25 then go through actually about three layers, I believe is what

1 we have now for assistant principal.

2 The initial interview team is composed of district
3 staff, and then the next level includes our deputy
4 superintendents that then submit names to me, and then
5 actually the three of us, the two deputy superintendents,
6 Dr. Scott and Dr. Sullivan and myself, sit in and interview
7 those final candidates for principals. And what we're seeing
8 now, I guess you would say it's a good problem to have is
9 because we have elevated a lot of our assistant principals, so
10 we have some openings for assistant principals, and that's
11 what we see right now, is the beauty of the Instructional
12 Leadership Academy to really start growing that pool of APs so
13 we can build a bench from within.

14 All that to say is that we want to build in those
15 layers especially for our APs and principals to make sure that
16 not only there's layers to that but also that we are looking
17 at the capacity to fill in schools to make sure we are putting
18 the right people in place as we grow the capacity of our
19 instructional leaders.

20 THE COURT: Thank you. All right. Mr. Pape, the
21 topics that we have left to discuss are academic access and
22 outcomes to a certain extent, facilities, and discipline. Are
23 those the three you were thinking of?

24 MR. PAPE: Yes, Your Honor.

25 THE COURT: Let's talk about facilities, first,

1 please.

2 MR. PAPE: Your Honor, I mentioned this earlier.
3 Really, the bulk of our facilities discussion is Highlands
4 Elementary. I think we did have a discussion about modular
5 buildings that I know the United States touched on briefly
6 during student assignment having to do with our growth. At
7 this point those have been placed but they are not ready. I
8 don't have a very long update to provide related to that, just
9 they have not -- supply chain has hindered our ability to use
10 those, so the schools are having to get creative with their
11 placement of classes throughout the building, cafeteria,
12 auditorium, wherever they can place students. It has not been
13 ideal, but the facilities team is not for lack of trying.
14 It's just like everyone, we are subject to the materials we
15 are able to receive right now. So I do expect that the
16 modular buildings will continue to be used for a short term.
17 That is not part of the superintendent's long-term plans.
18 That said, the earlier discussion about Mr. Craig joining the
19 team will likely drive a lot more of the discussion related to
20 facilities longer term.

21 I think the DAC also identified maintenance
22 concerns. There was a delay in getting some of that
23 information to the DAC. Some of that was, frankly, driven by
24 the fact that there's not -- the program that the district
25 uses is not -- it does have a user interface that allows it to

1 be easy exported to an understandable report, and then
2 intervening between that was also just Covid began, and I
3 think this request took a longer to get resolved than we
4 typically did with our information request for the DAC. So
5 that was something that we tried to work on, and it was an
6 early priority project for Dr. Smith. He has worked on
7 getting that information and also providing it in a way that
8 is more usable so that we can have a similar situation like we
9 do, like, with the candidate report. We wanted to provide
10 information that was usable.

11 So he has provided some summary information to try
12 to help them understand that maintenance. It's broken down by
13 different craft depending on if it's electrical or
14 lock-and-key or maintenance or plumbing, et cetera, and he
15 tried to break those down by different craft and provide some
16 information to try to alleviate some of the concerns the DAC
17 had about delays in certain things being done at different
18 schools.

19 I don't believe he has had a chance to sit down with
20 the DAC yet. I think they have gotten that information, but
21 knowing that they are volunteers and parents, I don't know how
22 much they have gotten to dig into that yet. I believe they
23 received that sometime mid to late fall. But I did want the
24 Court to know that we made that a priority that they received
25 the information they wanted.

1 The rest of our planned discussion is about
2 Highlands. I mentioned this earlier. I will reiterate it
3 again. The Court's point is well taken on the tone of the
4 message. I know we talked about that from this fall. And it
5 may have been overly formal and did not -- it did not, in
6 itself, I think, accurately portray the fact that the human
7 beings -- the superintendent, the board members, the
8 individuals like Dr. Smith and the district who have met with
9 the community, I think did do in-person and in their
10 conversations, their letters, their meetings, have tried to
11 really recognize that at the end of the day, there's almost
12 nothing that we're going to put down on paper or say that's
13 going to make up for the disruption they felt and the
14 frustration they felt, and we've tried to acknowledge that.

15 I say "we." I believe the district has tried to
16 acknowledge that as often as they can in those in-person
17 meetings starting with the one in early August or late July
18 when we had to make the announcement up through as recently as
19 last week when the superintendent, Dr. Smith, and others met
20 with the PTA to check in and let them know how things were
21 going with the renovation, and also to share some exciting
22 updates that I want to share with the Court as well that did
23 not -- they weren't ready in time to share in this report.

24 But actually as of last night, the board voted on
25 some additional renovations to do for the Highlands Elementary

1 school that were more cosmetic and kind of bringing it --
2 making it more modern, things like flooring and repainting and
3 adding some ceiling that more fit with our modern aesthetic
4 for schools as opposed to the '50s, '60s aesthetic that some
5 of our schools have. And the PTA was made aware of this, was
6 excited. The school leadership as well. I believe Dr. Smith
7 has also tried to keep the DAC in the loop about that process.

8 The superintendent and the facilities team are going
9 to work with the PTA and the school leadership to get their
10 feedback on things like color and where we can on the things
11 related to that, just so that there's some involvement, and
12 students will be also be involved, just making sure that they
13 have some say in their school and the way it will -- we are
14 excited to say when they come back in August of next year.

15 In many ways, what should have been a good news
16 story of a new roof, a new HVAC, which would largely alleviate
17 a lot of maintenance issues at that school, it's unfortunate
18 that some of the mistakes made by the district led to some of
19 these issues, but the long-term is going to be that when those
20 students get to return in August, they will have -- the inside
21 of their school will feel refreshed and then the actual
22 maintenance components, which may not make the students -- you
23 know, you can't see a new roof, a new HVAC every day. It
24 doesn't have that same effect. I mean, I'm happy, from a
25 representation of the district's standpoint, that that

1 happened, because those maintenance issues and the lack
2 thereof, rather, that they will have with this new roof and
3 HVAC will be huge, but for them to see new paint and all the
4 other aesthetic materials I think will be very exciting.

5 So the district has tried to stay in constant
6 contact, regularly supporting. They are going to finish the
7 year at Cavalry Hill, which will allow the district to be able
8 to complete those renovation projects by the start of the
9 school year, using that time wisely while they are already at
10 the other location, and continuing to try to support them at
11 that location so that they can move back for the next school
12 year.

13 And I think that's the bulk of the update that's not
14 otherwise contained in the district's response related to
15 Highlands. And, again, I'm happy to answer any questions or
16 address any other issues.

17 THE COURT: All right. Thank you.

18 Ms. Hamilton, are you handling facilities?

19 MS. HAMILTON: Yes, Your Honor. Starting with
20 Highlands, the district continues to keep us updated regarding
21 the latest developments at Highlands. We have already shared
22 with the Court our concerns about the miscommunication and
23 other issues that led to students at Highlands having to
24 attend school at Cavalry Hill School. We do appreciate the
25 district's steps that have been taken by the district

1 throughout the school year to ensure that the Cavalry Hill
2 facility is appropriate for students to receive educational
3 services as well as the steps that they continue to take to
4 ensure that when students do return back to the Highlands
5 facility, that it will be both inhabitable and also there will
6 be those additional renovations to really make it a welcoming
7 environment for students.

8 The district did inform us of their plans to move
9 forward with the additional renovations at Highlands this
10 semester, to which we have no objection. It's our
11 understanding that in addition to those renovations, the
12 district also plans to finish replacing the HVAC system and
13 also addressing some of the issues related to the asbestos
14 concerns. As the Court is aware, there were concerns raised
15 by the community and also that have been brought to the
16 Court's attention by the parties with regard to asbestos that
17 was in the internal part of the building that was not
18 accessible to students but still raised questions and
19 concerns, and I'm sure Mr. Pape could speak much more
20 eloquently about the details of how all how that works, but it
21 is our understanding that the district is planning to remove
22 any remaining asbestos that's in the inside or internal parts
23 of the building before students will return to the facility in
24 the fall, and it's also our understanding that all the
25 remaining renovations and repairs and cosmetic changes will

1 also be completed before the start of next school year.

2 One of the other ongoing questions that we have had
3 for the district in connection with this issue is its
4 communication with the Highlands School community, and it is
5 our understanding that the district has taken steps to
6 communicate with school administration and PTA and also other
7 members of the community to inform them of the renovation
8 plans and keep them posted also on other developments related
9 to the school. It's also our understanding that the district
10 plans to seek input from members of the school community about
11 some cosmetic changes that are in progress as well. And most
12 recently the district shared a copy of a letter that was sent
13 to the school community just this past week regarding some of
14 those recent developments and plans.

15 So we appreciate the district keeping us posted
16 about the communications, and we continue to encourage the
17 district to keep those lines of communication open, especially
18 given just the range of emotions and frustration that has
19 arisen over the course of this year in connection with these
20 issues.

21 Quickly, just to circle back to the modular units
22 issue, as the district noted, those units have not currently
23 been utilized. The district is still grappling with how to
24 deal with the over-capacity issues and concrete ways to
25 address it. One thing that we would remind the district and

1 it's our understanding that this is on their radar is that to
2 the extent that they do use modular units, that they need to
3 ensure that they are not being used in a discriminatory
4 manner.

5 One of the concerns that we had in the past has been
6 to the extent they have been used, there has been concern that
7 there have been classes that are the majority black or
8 couldn't otherwise -- or I should say the district couldn't
9 otherwise use those units and that the students attending
10 classes in those facilities are disproportionately black, and
11 we want to ensure that that's not the case. The district has
12 assured us that to the extent that they would be put in place,
13 that that would not happen, but we do want to ensure that that
14 is on the Court's radar as something we would monitor.

15 And then the last thing with regard to the other
16 school facilities and work orders, we continue to ask the
17 school district to keep us updated as to any issues that
18 arise, particularly if they see in the review of work orders
19 and complaints that they are receiving throughout the district
20 if there are disproportionate issues with buildings in north
21 Huntsville as compared to issues in south Huntsville.

22 THE COURT: All right. Thank you.

23 Mr. Debro, anything for you?

24 MR. DEBRO: Thank you, Your Honor. I think
25 Ms. Hamilton covered everything when it comes down to the

1 modular buildings, and Mr. Pape has given us a good assessment
2 of matters related to Highlands, and I appreciate the update.
3 I think the district has gone through some lessons learned,
4 and we know how to move forward. So we will just keep
5 monitoring the update and hope things are successful for a new
6 year for Highlands in the fall. So nothing further at this
7 time.

8 THE COURT: Very good. All right. Mr. Pape, how
9 about if we look at discipline next, please.

10 MR. PAPE: Yes, Your Honor. Student discipline
11 continues to be, from a data standpoint, a challenge for the
12 district. I think if I let the superintendent and Dr. Smith
13 speak candidly, they might even call it a frustration just in
14 terms of seeing movement in this factor. I think the district
15 tried to acknowledge that they do understand and agree that
16 the DAC -- there's almost no way to slice the district's data
17 that doesn't show a disparity on the basis of race, so I'm not
18 going to attempt to do that. But what I will say, instead, is
19 that the district's focus has been on attempting to --
20 especially coming into this school year, the district was able
21 to report lower number of disciplinary incidents in the
22 '20-'21 school year, but we knew and tried to be as
23 transparent as possible that we knew that was not a -- that
24 was an artificial statistic driven by the Covid school year
25 and the lack of students in the building.

1 In fact, the district has spent some time discussing
2 internally and trying to think through what support it could
3 do at a district level prior to the start of the '21-'22
4 school year. The district was aware of some of the concerns
5 and literature speaking to this about students returning to
6 school after over a year of not having socialization that you
7 would have expected students to have, and if you think about
8 those poor kindergartners who started in '19-'20, they got
9 most of a normal year, but then part of the -- the second part
10 of that year has not been normal. It has been disrupted. And
11 that certainly contributes to the complexity of this issue for
12 the district. It's certainly not the cause of, as we have
13 been wrestling with these issues for many years.

14 That said, the district has tried to take steps to
15 bolster its team's focus on how to handle discipline in
16 schools and how to handle behavior and support teachers.

17 I have talked about the PLA and the teacher
18 retention component. It's not a surprise and it shouldn't
19 come as a surprise and it was planned by the district that the
20 focus of many of those PLA aspects was related to either
21 building cultural competency in its teachers or in helping
22 them with managing their classroom or managing data around
23 PBIS. That was deliberate decisions by the district to make
24 those points of emphasis.

25 Also, Dr. Smith, serving in a new role -- he has

1 been with the district for some time but he is new in his role
2 as chief student equity officer -- identified that as an
3 important area, that we sort of split equity duties related to
4 students and adults over several roles, and Dr. Smith has been
5 tasked with keeping an eye and serving as sort of an extra set
6 of oversight in many ways joining Dr. McNeal, who has been
7 recently involved as our liaison for the consent order. He
8 sort of serves functionally as a coliaison in many ways with
9 the consent order. He is joined by Ms. Melissa Lindsey, who
10 was, until recently, a fairly seasoned principal in our school
11 district, recently serving as principal of Williams Middle
12 School. She takes over for Donna Clark, who retired last year
13 and had been over behavioral learning. And her position has
14 been expanded a little broader than what Ms. Clark's position
15 was in an attempt to align our health and mental health and
16 counseling services all under a single department, and she
17 works closely -- along with behavioral learning, she works
18 closely with Dr. Smith to implement training and to support
19 schools and to do things like PBIS audits of our schools.

20 So that has been the goal of their teamwork coming
21 into this fall, and has not been able to, I think, fully hit
22 their stride with implementation, and that's not through lack
23 of their intent to get the work done. Like everyone at the
24 central office, they are having to fill in at schools and
25 serve to help with the Covid issues that we've had and with

1 the surges that we've had, but they have, nevertheless, been
2 trying to juggle and wear many hats to try to support the
3 district in this.

4 One of the things that Dr. Smith identified was
5 needing to improve the focus and relationship of an outside
6 discipline consultant and has recently entered into a contract
7 with discipline consultant out of the University of Alabama,
8 the district has, and his work with her, Dr. Sarah
9 McDaniel, who has been helping us with our PBIS implementation
10 in the past, but expanding her role more broadly has been part
11 of Dr. Smith's planned work. I believe he is supposed to meet
12 with her in the coming couple of weeks to set out what her
13 role for the rest of this school year will be, and then we
14 will look going to the next school year.

15 So the district is trying to expand its efforts and
16 narrow its focus and help those teachers who are returning and
17 with students who are also returning this year deal with some
18 of the disciplinary challenges.

19 A preliminary review of the discipline data from
20 last semester shows that our data is more on track to look
21 like a '19-'20 or '18-'19 school year than it will be a
22 '20-'21. In other words, we will get back to -- the way we
23 are currently going is similar in data. I think we are
24 trending a little down in a couple of areas, but I don't want
25 to overstate that. It appears to be trending in the same

1 direction.

2 So that has been the mission that Dr. Smith and
3 Ms. Lindsey and the others that are kind of helping shepherd
4 these principals and schools through this. It has been a
5 challenge. And I guess I would also echo -- I believe it was
6 Ms. Gardner who identified that new teachers and teacher
7 turnover doesn't end up having an impact. You know, even if
8 we can keep the districts numbers fairly high, teacher
9 turnover, even if it's five to 10 percent, if we can get it to
10 that level again, that 10 percent or less range, that's still
11 a decent chunk of teachers coming each year in to replace
12 retired teachers, and those new teachers are typically, not
13 always, but typically less able to handle disciplinary
14 concerns and haven't, certainly, gone through the years of
15 training and professional development that others in the
16 district would have. So I do echo that as a potential issue.
17 But I think those are the major initiatives that the district
18 has implemented. I'm happy to try to answer any questions as
19 best as possible.

20 THE COURT: All right. Thank you, Mr. Pape.

21 Who is speaking on this factor, please, for the
22 United States?

23 MS. HAMILTON: I am, Your Honor. As we have seen
24 over the last several years, the overall data does show that
25 black students in the district continue to be disciplined

1 disproportionately to white students. This was a conclusion
2 that the DAC reached as well in their '19-'20 and '18-'19
3 reports.

4 We do acknowledge that each year there's always some
5 variation if you hone in on a specific disciplinary category
6 or if you look at specific schools. Because the numbers are
7 averages, there's always going to be some schools that are
8 demonstrating much better outcomes in terms of how students
9 are being disciplined. You also have students -- excuse me.
10 You also have schools on the other extreme where these
11 disproportionate rates are even more startling. One thing we
12 did want to point out because one of the reports from the DAC
13 was from the '19-'20 school year -- and this is a positive
14 example -- was that Jones Valley's numbers in '19-'20 were
15 better than any other year since the consent order was
16 implemented. Most notably, their out-of-school suspension
17 percentage -- actually, the percentage of black students who
18 received one or more out-of-school suspensions had dropped
19 (inaudible) percent, and that was compared to 15 percent in
20 '18-'19 and 20 percent the prior year before that.

21 Similarly, Blossomwood in '19-'20, the number or
22 percentage of black students who received in-school suspension
23 and out-of-school suspension was also better than any other
24 years since the consent order to the extent that out-of-school
25 dropped to 6 percent and compared to 13 percent, which had

1 been a prior high, and in-school similarly had dropped.

2 Even in those circumstances, though, the risk
3 ratios, that is, the percentage of black students who were
4 more likely to receive discipline than white students, was
5 still higher because while the numbers for black students had
6 dropped, the number for white students had dropped even more.

7 I wanted to point out, for example, changes
8 similarly. The district has shown over time that they have
9 reduced the number of expulsions, which was a significant
10 issue when we first started the case. With that said, there
11 are many areas, including just the overall numbers, where the
12 trends continue to show significant disproportionality in
13 student discipline. One that we wanted to point out that we
14 weren't sure was on the Court's radar was that in the '19-'20
15 school year, with regard to law enforcement referrals, black
16 students were nearly 11 times as likely as white students to
17 be subject to law enforcement referrals. And, again, if the
18 Court was to examine even more closely some of the numbers,
19 particularly at the middle school level and the high school
20 level with regard to exclusionary consequences, there are some
21 very concerning scenarios that the Court could see.

22 One of the things that we do recognize, as Mr. Pape
23 was explaining, is that since the time the DAC wrote these
24 reports, there have obviously been a lot of changes. The last
25 report captured the end of the '19-'20 school year, and I

1 would note that it's worth putting on the Court's radar that
2 even though students in Huntsville City Schools moved to
3 virtual learning during the latter part of the '19-'20 school
4 year, a lot of the discipline numbers actually increased
5 during that same school year. Since there was less time in
6 person, there should just be a natural decrease in those
7 numbers, but that wasn't the case in '19-'20.

8 As Mr. Pape noted, though, in the '20-'21 school
9 year, there did appear to be improvement, but we appreciate
10 the district's candor that that is largely attributed to
11 students reverting to virtual learning for significant parts
12 of the school year. We also appreciate the superintendent's
13 work and Mr. Pape's candor in acknowledging that the numbers
14 will likely increase for the '20-'21 to '22 school year as
15 well as the disparities that we have been seeing all along.

16 With regard to the reasons for why this is
17 happening, we appreciate just the DAC's analysis and
18 recommendations for just really relaying why we are continuing
19 to see these disparities as we get further and further into
20 implementing (inaudible). As Mr. Pape noted, certainly there
21 are a lot of issues that have happened on account of the
22 pandemic that can't be dismissed. Nationally we are seeing a
23 lot of this in other school districts where students have been
24 out of school for extended periods of times and that schools
25 are seeing increased rate in discipline issues. The reason

1 for that range, from learning loss and disconnection between
2 students who are struggling academically and that being
3 manifested in their behavior at school. Also, other reasons
4 that have often been cited by experts around the country
5 pertain to lack of socialization that students have
6 experienced, the lack of actual mental health support, taking
7 into account a lot of the issues that students are
8 encountering not just at school but also at home in the midst
9 of the pandemic, lack of consistency, teacher turnover, as
10 Mr. Pape noted and my colleague mentioned earlier, among other
11 reasons.

12 With that said, we also acknowledge that even prior
13 to the pandemic there were issues with disproportionate
14 discipline in Huntsville, and we do appreciate the steps that
15 the district has set forth that they are planning to take and
16 are taking at the current school year. We remind the district
17 that one of the things that's important about the initiative
18 and any of the ongoing initiatives that are in place is the
19 importance of implementing those initiatives. We are hopeful
20 that with the addition of Dr. Smith in his role as the chief
21 equity officer as well as putting initiatives in place that
22 they really show how well these programs are being implemented
23 district-wide, and we appreciate in particular the addition of
24 Dr. Smith who can look at these issues from an equity lens and
25 not just from the district implementing discipline according

1 to the BLG specifically.

2 We also encourage the district to continue to seek
3 outside resources, and we think it is a very positive
4 development that the district has moved forward with hiring
5 the discipline consultant who Mr. Pape mentioned a moment ago,
6 Sarah McDaniel. We are very hopeful that she will be able to
7 assist the district, and we are aware of some of her prior
8 work with the district.

9 And the last thing that I would mention with regard
10 to just the general issues related to disproportionality is
11 that we encourage the district to continue to review its data
12 at both the school level and the district level. The data and
13 information that schools collect on these issues really is a
14 critical lever that can be used to both identify if there are
15 problems that are happening. Also, that information can be
16 used to identify what are some of the root causes of those
17 problems, is it connected to certain teachers, is it connected
18 to certain disciplinary practices, is it connected to even
19 certain times of the school day. There's a wealth of
20 information that's available. So if schools are actually
21 reviewing that information and the district is also monitoring
22 what's happening in these schools, and requiring districts --
23 requiring schools to develop appropriate plans and strategies
24 to address these issues, we do think that there can be further
25 movement on this particular area.

1 One last issue that we want to raise with the
2 Court -- this wasn't mentioned in the DAC report, but we have
3 been made aware of issues related to the administration of the
4 dress code, which is part of the Behavioral Learning Guide,
5 and just potential concerns that have been raised regarding
6 the dress code being implemented in a discriminatory manner.
7 We are aware that the district is currently administering a
8 dress code survey in order to get feedback from students,
9 parents, and the community about whether there are any
10 concerns about the dress code on its face and also if there
11 are concerns or feedback that people want to share about
12 implementation. So we look forward to seeing the results of
13 that survey and also working with the district to address any
14 issues that the survey reveals.

15 THE COURT: Thank you, Ms. Hamilton. This may be
16 something that you have visited with the district about in the
17 past, but I believe the DAC in its report suggested to the
18 district that the district look to other school districts that
19 have had some success with addressing racial disparities in
20 discipline, and I just wondered whether you have any examples
21 that maybe you could share with Mr. Pape of districts that
22 have been able -- you know, part of it is just identifying, as
23 you said, where are the places where discipline seems to
24 become an issue and when does the discipline become
25 disproportional. So I just didn't know if maybe because of

1 your work in a variety of districts you might be able to be a
2 resource for Mr. Pape with some of that information.

3 MS. HAMILTON: Absolutely, Your Honor. And in many
4 ways the district is implementing initiatives that have been
5 shown to be best practices in other places around the country.
6 PBIS is a framework that really is followed by the Department
7 of Education and used in many schools across the country, and
8 it's one framework that has been shown to have measurable
9 results in many school districts. Similarly, the use of
10 restorative justice and some of the other practices that the
11 district is using have been shown to produce results and
12 improve disproportionate discipline and disparities in other
13 areas.

14 I do think with that said, every district is unique,
15 and one of the issues mentioned earlier was ensuring that
16 those types of programs of implementing fidelity but beyond
17 that recognizing that there may be unique needs and issues in
18 each district that require additional ways of addressing. But
19 with that said, we are certainly happy to continue to work
20 with the school district to point them toward other resources
21 that are on our radar.

22 THE COURT: All right. Thank you.

23 Mr. Debro, do you want to speak to student
24 discipline?

25 MR. DEBRO: Not at this time, Your Honor. You

1 covered my issue. My issue was finding a model school system
2 to help guide us to make us trend in the right direction here
3 in the district. So you covered that, so we can move on.
4 Thanks so much.

5 THE COURT: Thank you.

6 All right. Mr. Pape, I think that brings us to
7 equitable access to programming in the schools and to
8 disparities in achievement.

9 MR. PAPE: Yes, Your Honor. This factor,
10 actually -- while I would say there's frustration with
11 discipline, I think the frustration here with the district is
12 a little different, actually. And I will tell you what I mean
13 by that.

14 A lot of the discussion about this factor -- and I'm
15 included in this, in terms of people I'm talking about who
16 have done this -- is that there has been a lot of focus on the
17 AP and recruitment piece. It has been a big piece by the DAC.
18 It has been a big focus of the legal team as we have gone to
19 present to the Court, and obviously it's part of our consent
20 decree that we focus on this recruitment of students into AP,
21 and the district has done so. The district has made that a
22 huge focus. I can't tell you how many quarterly meetings,
23 biannual meetings, other meetings that we've been privy to,
24 and many more that I'm sure the superintendent and her team
25 have about this topic. And, in fact, I think we see in the

1 DAC's report that they identify some of the communication
2 issues that may improve the outreach for AP in their '19-'20
3 report, and then in the '20-'21 report they reported that the
4 district had, in fact, taken their advice, and it's true, and
5 tried to do more targeted recruitment for our black students
6 in high school. In fact, getting -- (interruption in audio
7 feed) -- folks that work on statistics and data, identifying
8 the students that were proficient but chose not to take an AP
9 course, to try to reach out to them with kind of a warm invite
10 to let them know that we think you have shown the ability to
11 be able to do this and we want you to do this, to try to grow
12 that pool of black participants.

13 Where we're really running into a wall is the number
14 of students who fit in that category. There is a certain
15 concern, a genuine concern, about placing students in courses
16 when they haven't shown a proficiency to be successful in
17 those courses, and how much harm that could do to a student in
18 terms of building that trust, and then leading to some of
19 those concerns that we see about welcoming students and making
20 sure the environment in those classes is welcoming if the
21 student is not set up and prepared for success; then in many
22 ways we might over-recruit ourselves into some of the concerns
23 that are raised.

24 So that leads with a bigger question mark for the
25 district of where we are moving to get more students prepared

1 so that pipeline grows so that we are pushing the students in
2 the high school, which when I speak to some different
3 frustrations, that's where a lot of that will occur.

4 In the '18-'19 school year, the district began
5 implementing a lot of initiatives, especially at the
6 elementary level, related to -- programs called Collaborative
7 Classroom, and there were some other programs that I believe
8 Ms. Finley may have spoken to at the status conference during
9 the -- if it wasn't the '18-'19, it was the '19-'20 school
10 year speaking on the efforts of '18-'19. That was the year
11 where in the fall of '19 the district saw movement in its
12 report card grades. We saw schools have growth academically
13 in north and south Huntsville. We saw more improvement than
14 we have ever seen in terms of our elementary student
15 performance. It showed in our score report card grades some
16 of our proficiency.

17 By no means am I saying that they were done, by any
18 stretch, but we started seeing momentum, like planned actions
19 leading to momentum. And one of the key indicators that
20 Dr. Smith used in his previous role, and I think he is still
21 involved in this in supporting the superintendent in her
22 initiatives, was looking at proficiency data of students at
23 different points throughout the year to track how we thought
24 that students would perform in their end-of-the-year benchmark
25 exams. So at the beginning of the year, students take the

1 benchmark exam or they take an exam that had certain
2 benchmarks for proficiency to see how that student would fare
3 on material for that school year.

4 So let's say half of the material is taught in the
5 fall. The students take an examination. If they score 50
6 percent at the beginning, then that will show that they hit
7 the benchmark in the material for what you would expect the
8 students learn halfway through the school year, tested at the
9 beginning of the semester and at the end of the semester. And
10 I'm sure there's a more artful explanation if we need to get
11 into the details of how those are designed, and Dr. Smith and
12 Superintendent Finley can explain. But the core take-away is
13 in that '18-'19 school year, between -- beginning of the year
14 and the middle of the year, we saw an increase of 5 percent
15 and 3 percent in reading and math across our students. It
16 doesn't sound like huge numbers, but when you're talking about
17 tracking consistent growth and seeing trends, we saw very
18 positive trends that year, 5 percent and 3 percent, and it led
19 to the proficiency results that we got at the end of the
20 '18-'19 school year, which led to that report card grade.

21 So the district continues to implement those effects
22 and those strategies and plans in the '19-'20 school year, and
23 the growth that we saw at the middle of the year was a
24 7 percent, up from 5 percent, in reading and a 9 percent, up
25 from 3 percent, in math. So we were tracking -- you know,

1 watching Dr. Smith kind of explain this to the group and how
2 big of a statistical impact, how exciting that was to see, you
3 know, you can see the spark of excitement that that's where we
4 were headed. And at the time it sounded like it was a --
5 maybe a mercy on districts who were dealing with the beginning
6 of the pandemic, but in many ways the State's decision not to
7 have the accountability metric at the end of the year was
8 frustrating to the district because they had seen double the
9 improvement in terms of where they were going from '18-'19
10 where we had this great success story and moved the district
11 to a B, then we finished the year and didn't get to have that.
12 And by March a lot of the standards are taught. So you have
13 teachers who really made use of these programs, and we were
14 excited to see what the students were going to do with these
15 procedures.

16 Well, then Covid happens and it changes the
17 instructional framework. And I will say, again, in my
18 noneducator understanding of this, that one of the major
19 components of the programs that were implemented had to do
20 with some group work, social/emotional interactions between
21 students, being there daily with one another and kind of
22 working through those lessons and having really targeted and
23 focused learning for the students, but they were there
24 together. If you had asked me in '18-'19 if in-person
25 instruction is a component of the success, I probably would

1 not have listed that in the status conference because that was
2 a foregone conclusion, but it appears that the in-person made
3 a major impact, because when you look at that same metric from
4 fall to mid-year for the '20-'21 school year, in reading it
5 was a minus 3. So not even a positive. It was backwards.
6 And in math it was flat, basically zero. So for both, that's
7 basically a 10 percentage point difference from the previous
8 year.

9 I think there's probably a lot of reasons due to
10 disruption and everything else we've talked about, but it
11 definitely did not allow the district to implement the plan
12 that they thought they were seeing success with in terms of
13 building that capacity.

14 Now we are in '21-'22 and our numbers are sitting
15 more at 3 percent increase in reading and 4 percent in math.
16 Does that necessarily mean that we will also see the great
17 year that we saw in '18-'19, I sure hope so. I hope that
18 that's what we will see. I think that there's probably more
19 to the story in terms of the disruption. Just today the
20 superintendent actually did have to make the hard decision --
21 this is different from Tuesday when we met on the telephone --
22 to close schools next week. Well, not closed but go to remote
23 learning next week for five days because the surge has hit our
24 staff just so hard over the last two days that we had some
25 supervision concerns.

1 And so I know -- and I may stop here in a moment and
2 let Ms. Finley finish the rest of this section, but I do know
3 that while she and her team have been working so hard to adapt
4 the success story that we started to see in '18-'19 and
5 '19-'20 to '21-'22, there's probably still a bit more time
6 before we're able to get back to more normalcy. I sure hope
7 by this fall, I sure hope that we are more past Covid in eight
8 months than we are now, but I do think that has been the
9 biggest challenge for her team to grow that pipeline for those
10 AP and honors kids. And secondary is how do we get back to
11 the normalcy that we think were working two years ago.

12 So, Ms. Finley, if you want to add anything to that,
13 if the Court will allow, I'm happy to let her --

14 THE COURT: Sure.

15 SUPERINTENDENT FINLEY: I'm a little emotional about
16 this, because when you hear this story and you see the gains
17 that we were making, it hurts to hear where we are. I'm
18 sorry. We were on a positive trajectory. Making sure the
19 students have normalcy in their lives. Our staff are front
20 line, boots on the ground, and they are suffering too.
21 There's things that probably the Court doesn't know regarding
22 what our staff has had to endure with the antimaskers, and
23 we're trying to do what's right by keeping the doors open,
24 from our staff being ambushed after board meetings, to -- I
25 mean, all the things you can imagine, that you've heard across

1 the country.

2 But at the end of the day, trying to make the right
3 decisions for our students and our teachers. So I'm sorry I'm
4 so emotional about this, because we're trying to get back to
5 some consistency for our students, and when you hear the gains
6 we made in one year and we were projecting more gains to be
7 made the following year or just this past year to be an A, and
8 you hear that teachers are leaving because they're frustrated.

9 And as a former teacher, I get it. I can't imagine
10 what they have to go through every day. Students that have to
11 go home for being quarantined, or last year having to do
12 virtual at the same time with students face to face. But I
13 have to say we couldn't have done it without them, and their
14 extraordinary -- I'm proud to be part of this team. So I'm
15 sorry, Judge, that I get emotional about it, but they work
16 very hard.

17 With that said, I think -- and I believe it was
18 Ms. Hamilton that pointed it out. You know, we have been very
19 candid about students coming back, and what we're seeing is
20 that not only -- you hear about learning loss, and I'm not
21 making excuses, but here is the thing. This is where we are.
22 But the discipline issues, I believe, is a result of the lack
23 of social and emotional interactions, collaboration, they now
24 manifest themselves in behavior issues. That's what we know
25 happens with children. And then couple that with it's hard to

1 get to the academic piece and instruction piece if you are
2 also addressing behavior issues.

3 I will say that the extra money that we have been
4 provided has allowed us and afforded us to do some additional
5 things, such as providing before and after school tutoring for
6 students, and for those students that can't get to that
7 tutoring, we offer it in the middle of the day, what we call
8 focused learning time, and that's for all grades, and it's
9 very standards driven.

10 So the assessments that Mr. Pape was referring to is
11 very entrenched in how the students are in groups. So it's
12 very standard based in terms of the learning that they receive
13 during the day.

14 We are looking at ACT mock testing, so we had mock
15 simulations of that in the fall, so we can front load and work
16 on that during the focused learning time for our juniors that
17 are going to take the test in March. And then also we had
18 just this past summer, we focused on front loading for AP,
19 first time AP and honor students. So they had some
20 opportunity this summer to participate in that and in ACT boot
21 camps also for our students.

22 So there are measures in place and I'm very
23 fortunate for the federal money that was given to our schools,
24 but the one thing that we see is that we had some money
25 allocated also for additional supports in terms of behavioral

1 support and social and emotional support. And as you know, we
2 contract with WellStone that has licensed LPCs. They are
3 struggling also trying to find staff as well. So there's that
4 one part that really is a concern for me, which is part of the
5 plan that addresses the positive climate, because I feel like
6 we've got to get that right, and we've all shared that today,
7 the discipline piece, but more importantly just the positive
8 climate where students feel welcome and part of the group, and
9 reestablishing that collaborative environment in our schools
10 that we had going into, as you see in our data, with our
11 literacy pathway in our private classrooms.

12 So I think with that said, it's reintegrating what
13 I'm calling a great re-engagement rather than the great
14 resignation, I think is how we have to look at things, and
15 although I'm very emotional about it, it's also because I'm
16 very passionate about it and making sure that we continue with
17 that consistency and that standard based instruction that we
18 saw across the district, but more importantly, in order to get
19 our students to AP classes, they have to be prepared, and it
20 starts in elementary. We all know that.

21 And all that to say -- I'm sorry. I'm starting from
22 the beginning, because I haven't had a chance to see you,
23 Judge -- is the retention piece for our teachers. That is so
24 critical. We see a mass exodus. It's just everywhere. I
25 have to applaud our State superintendent who went to the

1 board. They have taken a lot of the requirements off of
2 teaching certificates. So if there are teachers that are
3 outside the state -- and you may already know this -- and we
4 don't have reciprocity with the state, they are allowed to
5 come and work. So that's a plus. Teachers that might be out
6 of the field and teaching in another field that had a master's
7 degree, they're going to benefit from that, which is great.
8 That's another incentive.

9 And also looking at some other things, like the
10 Praxis and the NTPA, all these extra requirements they are
11 adding on to students to graduate, looking at pulling some of
12 that back. Not to say that we don't want our teachers
13 obviously to be ready in a classroom, but maybe starting
14 recruiting more and to counsel post-secondary, because right
15 now that is a major concern here in the state. I'm talking
16 statewide, but what also concerns us locally is the pipeline
17 is very, very shallow. The pool is very shallow for students
18 that are in college education.

19 So we are hoping that one of the things that the
20 State is doing, it might incentivize some of our students that
21 are now leaving us to go into college education and maybe
22 return to us.

23 All that to say, getting back to what we know works
24 and what we were doing in the year before the pandemic hit us,
25 a big take-away was it doesn't define us but it has made us

1 learn how we can do things better in education and be ready to
2 pivot when things change.

3 That's kind of where we are now. We are moving to
4 virtual next week. Our teachers are ready to do it, and we
5 are going to keep pushing forward with that consistency as
6 much as possible.

7 THE COURT: Thank you, Ms. Finley. And hopefully it
8 will just be a short period that you all have to go to
9 virtual. I know it has to be incredibly, incredibly
10 difficult, and I think we were all -- I can speak about this
11 from the Court's perspective. We were feeling optimistic in
12 November. We had made it through Delta and thought we had
13 some breathing space and then you get hit again with a new
14 version of Covid, Omicron, so I know it has been a tough time.
15 And there's a lot that all districts, not just Huntsville, but
16 all school systems are going to be working to recover and move
17 on from once this difficult period is behind us.

18 Who is speaking for the United States, please, on
19 this topic?

20 MS. HAMILTON: I have a few brief remarks, Your
21 Honor. First, as with the other factors, we appreciate the
22 DAC's analysis of the equitable access, for their annual
23 report, and just their general review in this area overall.
24 We also appreciate the remarks the superintendent made a
25 moment ago just providing more context for the issues that the

1 district has been facing over the last several years,
2 especially throughout the pandemic.

3 Kind of briefly, with regard to AP and honors, that
4 as the DAC noted, there has been a continual trend of the
5 percentage of black students in AP and honors are lower than
6 white students participating in these courses. We do
7 recognize in looking at the data that for the last school
8 year, the percentage of black and white students participating
9 in a lot of these courses decreased, but the gap also remains
10 notwithstanding the decrease for both.

11 In particular, in '19-'20, the percentage of black
12 students enrolled in at least one AP course was 17 percent and
13 that number subsequently decreased each year from 17 to 16
14 percent and this year to 12 percent. Again, as noted, the
15 numbers for white students have decreased, but they started at
16 39 percent and this year is at 34 percent. So there is a gap
17 that exists between the two.

18 We appreciate the measures that the district has
19 shared that have been taken to address this disparity and
20 participation in AP courses. As Mr. Pape noted, obviously you
21 can't recruit students for classes that don't wish to
22 participate in those classes, but we do appreciate the
23 district's efforts to identify the students who have whatever
24 requisite courses are necessary and for those who haven't
25 enrolled in AP or honors classes, to do an additional outreach

1 to encourage them to participate in those classes.

2 We also recognize that, as Ms. Finley said a moment
3 ago, that this really is a pipeline issue and we really do
4 have to start early to equip students so that they are
5 prepared to take these classes. And so we do appreciate the
6 steps that the district has described that they plan to take
7 and have been taking with regard to curriculum and the number
8 of other initiatives and measures that have been put in place,
9 and we do hope that it produces that group of students to
10 reach the grade level that they would be participating in
11 honors and AP classes and that they can actually do so.

12 We also appreciated in the DAC report the DAC's
13 acknowledgment of the student members on the committee. The
14 DAC gave the example of students who shared that in their
15 experience, many students were discouraged from taking AP and
16 honors courses and that also contributed to the low number of
17 the students who were in these classes, and we do believe that
18 feedback is incredibly valuable. It sounds like the district
19 has taken that information and is using that to inform some of
20 its practices; but if not, we do encourage the district to
21 take to heart the feedback it is receiving from the DAC and
22 also from the AP and honor surveys that are administered each
23 year, and we're glad to hear that there are changes that are
24 being made to that survey to better gather feedback from the
25 student population and from the teachers as well.

1 With regard to the achievement gap, generally, as
2 the district shared, there are a lot of things that happen
3 with regard to student performance that are not captured in
4 the state-wide exams, and we appreciate the additional context
5 that has been provided even just about the various formative
6 assessments and other assessments throughout the school year
7 where the district has been tracking growth and performance
8 that indicates at different points that students have been
9 benefiting from the curriculum measures in place but then also
10 the fact that due to Covid and other reasons that have been
11 shared, that there have also been ongoing challenges.

12 We do note just because this is data that we have
13 that with regard to the ACT math and English scores for 11th
14 grade and the 3rd and 8th grade math and reading scores that
15 there have been significant gaps between the performance of
16 black students and white students. That has been consistent.
17 We would note that for the '20-'21 school year, the percentage
18 of white students who demonstrate proficiency in math in the
19 district was at 33 percent compared to only 2 percent of black
20 students in the district. Similarly, for grades 3 through 8
21 in math, the percentage of white students who demonstrated
22 proficiency on the exam was 40 percent compared to only 5
23 percent black.

24 Again, I'm sure the district would want to get the
25 numbers better for all students, but we do want to ensure that

1 we just point out to the Court that these numbers are
2 incredibly low and that -- really, we're just trying to figure
3 out how to address the disparity as best as possible and also
4 to ensure that students are getting the support that they
5 need.

6 THE COURT: Ms. Hamilton, let me interrupt you for
7 just a second, because the district put that data in its last
8 report, and just for the record, those test results appear in
9 document 723 at pages 19 through 20. So thank you. Go ahead.

10 MS. HAMILTON: Also, Your Honor, we encourage the
11 district to continue the measures that have been described
12 that they are taking, and we do hope -- again, we recognize
13 that with the pandemic that the challenges that the district
14 were already facing have been further complicated, but we are
15 encouraged by some of the steps that have been described even
16 on this call today as well as things that the district has
17 been sharing with us this school year, and that we will
18 continue to monitor what the district is doing, and we do hope
19 that we will have an opportunity to observe the school in some
20 capacity this year.

21 Just for the Court's benefit, the last school year,
22 due to the pandemic, we were not able to physically get
23 on-site. We conducted a virtual site visit, which included
24 doing virtual classroom observations as well as some
25 interviews. We're not sure, again, just given the current

1 rise of the Omicron variant, what that will look like this
2 school year, but we have certainly been trying to find as many
3 ways as possible to continue to monitor the district's
4 compliance.

5 THE COURT: Thank you, Ms. Hamilton.

6 Mr. Debro, do you have anything on this factor?

7 MR. DEBRO: Yes, Your Honor. I will be brief, as
8 the numbers and the data has already been discussed. I know
9 the district -- instead of just beating more on the district
10 on where we are, I know we have to come up with solutions in
11 helping, and I don't know whether this will help, but in this
12 community of Huntsville where we have probably one of the most
13 educated communities in the nation, I think this is an
14 opportunity I see where students can go ahead and make a
15 difference. We have three universities here in this community
16 where some may be in the education area where I see
17 opportunities for college students to go ahead and work and
18 tutor and work with some of these students to achieve these
19 gaps on where we are. There may be some that are in the AP
20 courses that can start earlier on this pipeline and explaining
21 to the younger generation the benefit to go ahead and start
22 them earlier.

23 I don't know whether that will help, but it's just
24 something that we need to do to change these numbers as a
25 community to go ahead and increase the numbers to make sure

1 those gaps are not there like where they are now and just make
2 sure those courses are available to all our students, to black
3 students as well as the majority students in this community.

4 In the comparison of the AP courses at Grissom,
5 Huntsville High, and Jemison, just even going back and looking
6 at those courses that are being offered, maybe we can go ahead
7 and encourage some others to broaden that scope over at
8 Jemison. It may be just lack of understanding or whatever it
9 may be. But I know north Huntsville has a new library that
10 could help with those reading scores. I notice in the report
11 that there was partnerships with several corporations, but
12 looking at opportunities and it may be one of the times where
13 this community gets the benefit of our good superintendent
14 going out and asking for more assistance. I don't know
15 whether it's from the Boys & Girls Club or one of the D-9
16 organizations or whatever it is, but just to go ahead and
17 reach out, because there are a lot of organizations in this
18 community that do a lot of good work, some with tutoring, some
19 without.

20 So there's just opportunities to go ahead and make
21 some changes here, and I look forward to offering some
22 suggestions to the district for that.

23 THE COURT: That would be great, Mr. Debro, for you
24 to share resources that you may be aware of that will help the
25 district.

1 It is clear -- and all I'm doing is echoing what
2 everyone else has said -- that the lack of participation in AP
3 courses by black students is tied to the proficiency that
4 black students have in different academic areas, and so the
5 solution is one that is going to take an investment, not just
6 in resources but in time, because the work has to begin at the
7 elementary level to put children in a position to be
8 successful and to excel and have all the opportunities that we
9 want every child to have, and it seems as though -- and I'm
10 separating this from Covid, and I know it's hard to think
11 outside of Covid right now because it is impacting every area
12 of our lives, and particularly so in school communities. But
13 while the numbers may change some after Covid is behind us and
14 while the numbers may change as students acclimate to this new
15 testing tool, the disparities have been there for a long time
16 in proficiency, and without some concerted effort to address
17 them, they will -- they will be intractable. And if there is
18 any vestige of de jure segregation that allows us
19 statistically to measure the impact of de jure segregation, I
20 would suggest to you that it's these proficiency measures.

21 So, to me, that says that where the district is able
22 to invest resources to tackle them, those resources are needed
23 tremendously, and I would just encourage the district when
24 it's able to redirect some of the attention that it currently
25 has to invest in Covid, that we all are dedicated to being

1 resources and helping in any way we can, and we look forward
2 to seeing what the district can do to address those continuing
3 disparities.

4 I know every teacher wants to see every student do
5 well. I wonder, Superintendent Finley, does the school look
6 at -- and I assume you do. Does the district look at these
7 statistics on a school-by-school basis and not just a
8 district-wide basis?

9 SUPERINTENDENT FINLEY: Yes, ma'am. We actually
10 give schools their own report card, I guess, if you will, or
11 their own goals, indicators of future success, and we are
12 meeting with our principals in a couple of weeks to go over
13 their benchmark to see where they are, talk about recruitment
14 efforts, because we are about to open our registration for
15 next year. That's for high school. But also looking at the
16 elementary to see where their last star was, which was -- we
17 just completed a few weeks ago, to see if they are on track
18 with the students that we have actually been able to see, like
19 level one, two, and three -- or three and four. One and two
20 are not proficient. So we have identified those students,
21 drilled them down, and they have been very strategic in how
22 they are giving more support and intervention to the students
23 as well.

24 I'll give you an idea that I used at Blossomwood to
25 raise scores for the ARMT, which is very similarly scored,

1 where our teachers are actually going to push in and pull out
2 students that are in the level one and two and work on how
3 they are thinking questioning, because the ACAP is actually
4 different from the Scantron. And so if the student isn't
5 familiar with the test or the questioning, that adds another
6 layer of difficulty; right. So that's another supportive
7 service that we're doing just internally with our schools, and
8 I'm going to be working with our principals on that to see
9 where they are on that. The test is scheduled for the end of
10 March, and everything is kind of subject now with a lot of
11 schools going to virtual.

12 But at the end of the day, yes, ma'am, yes, Your
13 Honor, we are working with our schools, and that is our
14 next -- next week, week after next, to discuss their current
15 benchmark and where they are with the students to move them in
16 that proficiency, in that growth piece.

17 THE COURT: I asked the question about whether the
18 district looks at these proficiency scores on a
19 school-by-school basis because I just wonder whether you see
20 differences in predominantly black schools, in schools that
21 have student bodies that are closer in percentages of -- you
22 know, I think of a Blossomwood. I think of some of the
23 other -- I think it's Jones, that have student bodies that are
24 a little more balanced racially, and then the predominantly
25 white schools, to see how the black students in those schools

1 are performing, and I just was curious to know whether there's
2 any information in that data that helps everyone understand
3 what we see in the overall numbers.

4 SUPERINTENDENT FINLEY: Yes, Your Honor. We have
5 actually drilled it down also by subgroups, looking at the
6 black students, white students. We are looking at special
7 education, EL populations, poverty, and a lot of those
8 students fall within those same categories. So that has all
9 been desegregated. They also have that in a dashboard that's
10 available on the State Department website as well as on the
11 ACAP, part of the accountability. We also have that, that we
12 help and give those principals in case they have any
13 difficulty with it, Your Honor -- that has been presented as
14 part of our discussion to see where we are, and that they see
15 movement with the students identified.

16 THE COURT: Good. One of the discouraging pieces of
17 news, if it's true in Huntsville as it appears to be
18 elsewhere, the pandemic is having a bigger impact, it seems,
19 from what I have read, on black students than it has on white
20 students. So that's almost a double whammy for trying to
21 address these issues. But I think you basically referred to
22 this in one comment that you made, Superintendent Finley. It
23 is what it is. You take where you are and you have to work
24 from where you are, and so that's just going to be something
25 that the district will have to weave in to the work that it's

1 doing.

2 But I certainly think that addressing some of these
3 academic issues will hopefully feed in to the discipline
4 issues that we discussed. When students feel good about
5 themselves and they feel good about the work they are doing
6 and they are seeing the fruits of all their effort, that
7 certainly seems in the most instances to help address
8 discipline issues.

9 So there's so much that is interwoven here, and even
10 going back to our early topic of extracurricular activities
11 and clubs, using those as a means to build that self-esteem
12 and that curiosity, it's just all works together. And as
13 important as it is to any district to get to the point where
14 they no longer have supervision, it's hard to ignore the fact
15 that so many of these Green factors operate hand in hand, and
16 success overall can't be achieved without paying close
17 attention to each of them.

18 Mr. Pape, did you have another topic you wanted to
19 move to?

20 MR. PAPE: Your Honor, I actually think that is
21 the -- I believe that's all of my notes and all of the topics
22 we had prepared. If there's any other issues, we would be
23 happy to speak to those if we have information available.

24 THE COURT: I'm looking through my notes.

25 Ms. Hamilton, any other broad issues for the United States?

1 MS. HAMILTON: There are no other major areas
2 specific to the Green factors. So similar to Mr. Pape, we are
3 willing to respond to any questions or topics that the Court
4 is interested in hearing about.

5 THE COURT: Mr. Debro?

6 MR. DEBRO: Yes, Your Honor. Just as an old issue,
7 some time ago the Court will probably remember we had the
8 question about the students that lived in the area of Sparkman
9 homes. I'm not sure whether the district was able to track
10 that population to see if they are still in the system or what
11 is the current status of that group of students.

12 MR. PAPE: Your Honor, I could probably ask
13 Dr. Smith to address that. I know he was working on that
14 particular issue, if the Court would like to hear about that.

15 THE COURT: Sure.

16 DR. SMITH: We worked with the Huntsville Housing
17 Authority to identify who were those students who might be
18 displaced. The way -- kind of what they did with that
19 population is for the ones who were being displaced, they gave
20 vouchers, some of them within the district. I believe some
21 were out. But most of them actually ended up being really in
22 the same general area, in that kind Hereford, Blossomwood,
23 Jones Valley kind of region.

24 So for the students who were a little bit older, the
25 middle school students, the high school students, there really

1 wasn't a ton of disruption in terms of where they were going
2 to school. You know, if their elementary feeder changed but
3 they are in high school, they would still be going to
4 Huntsville High. But the younger students who we identified,
5 we did reach out to those families at the beginning of the
6 year -- I think it was actually probably over the summer --
7 and just said, hey, we understand the situation that you are
8 in; regardless of where that voucher is pointing you, you are
9 free to continue in that feeder pattern for your duration at
10 Huntsville City Schools.

11 We had some take advantage of that. We had some not
12 take advantage of it. For instance, if they had been zoned to
13 another one of our schools, they were okay going there. Like,
14 for instance, with the elementary schools and some of the
15 changes in those schools -- some of them wanted to stay where
16 they were. I know we did have an issue or two where I worked
17 with some families because they had originally wanted to stay
18 with what their priorly zoned school was and then afterwards
19 just realized, hey, this is not -- I would rather go down the
20 street to Jones Valley, or whatever.

21 So there were some kind of August adjustments that
22 the principal, Dr. Scott, over there in Blossomwood and the
23 principal, Ms. Alexander, over there at Jones Valley helped us
24 to kind of get those students moved around. We are going to
25 keep track of who they are, and as long as they want that, as

1 long as they want to kind of continue in that feeder pattern,
2 I don't think the district has a problem with letting them
3 continue.

4 Like I said, the disruption was actually, I think, a
5 little bit more minimal than we realized it would be just in
6 terms of it wasn't all the students who were zoned for Jones
7 Valley were now moved over there to Providence or something
8 like that. Some of them, a lot of the vouchers kind of were
9 within the area. I hope that answers the question there.

10 But that's something that we are keeping on our
11 radar. I believe -- I'm sorry I'm talking too much, but I
12 think they are actually closing -- I would have to check with
13 the Huntsville Housing Authority. I think they have a plan
14 around some of that mid town area to kind of make adjustments
15 to some of those other units where they have families located,
16 and so hopefully we can use this as a model, do it even a
17 little more systematically where we can offer that same
18 benefit.

19 Mr. Debro, or anybody else, Mr. Pape, if you hear of
20 some of that, let us know, because we definitely want to reach
21 out and make sure we offer that service to those families.

22 THE COURT: Does that answer your question,
23 Mr. Debro?

24 MR. DEBRO: Yes, ma'am, it did. Thanks so much.

25 THE COURT: Sure. Was there anything else for you?

1 MR. DEBRO: Nothing further at this time.

2 THE COURT: Superintendent Finley and Dr. Smith,
3 first of all, thank you so much for all the time you have
4 given us today. I know things are particularly difficult
5 right now, and I'm sorry to hear that you're having to go to
6 remote learning again next week, but hopefully it will be
7 short-lived. And among the many heroes of the pandemic are
8 the teachers and administrators who have worked so hard to
9 keep life as normal as possible for students, and I salute all
10 of you. Very hard, very difficult work.

11 I know that your effort has been to keep things as
12 normal as possible, and because for the Huntsville district,
13 part of normal is this consent order. I'm grateful that the
14 district is willing to continue these conversations even in
15 the midst of the pandemic. So thank you for your time and
16 your effort.

17 Going back to that sort of big picture conversation
18 about the DAC's efforts and the district's work with the DAC,
19 those of us who have been part of this process for several
20 years now know that just figuring out the DAC's place in this
21 consent order was a big process, and we have been so fortunate
22 to have so many parents and now so many students be willing to
23 participate and volunteer their time because they are so
24 invested in the district and they want so badly to see the
25 district succeed broadly and in its ability to satisfy the

1 consent order.

2 In mentioning that the DAC doesn't have to take a
3 deep dive into the statistics in the annual report, I suspect
4 some of that work comes from that dedication that the parents
5 have and their desire to really do a great job for the
6 district. And I suspect, too, that if the DAC isn't getting a
7 lot of feedback from the dropboxes from community meetings,
8 from all the different ways that they try to reach out and
9 gather information so that they can fulfill their obligation
10 to the district and their obligation under the consent order,
11 they are going to turn to those statistics because it's their
12 way of being able to provide feedback, and so it's incumbent
13 on all of us, to the extent that we can, to help make the
14 consent order and the reports that the district worked so hard
15 to provide, consistent with the obligations under the consent
16 order, accessible. And if they are accessible to the DAC, all
17 the members of the DAC, then they are going to be accessible
18 to all parents in the community and all stakeholders in the
19 community.

20 So that's something that has a lot of merit to it in
21 a very broad sense. And those of us who have been part of
22 this process also know that there's a difficult line in the
23 district's work with the DAC because the DAC needs to be
24 independent and needs to be perceived as independent for
25 people to be willing to come forward and share concerns with

1 the DAC, but the DAC also needs a certain level of assistance
2 to be able to function, because it doesn't have an independent
3 source of funding. It doesn't have its own infrastructure to
4 accomplish a lot of the work that it does.

5 So I would be delighted to hear suggestions from
6 anyone as our final little bit of conversation here today
7 about how we can continue to support the DAC as best we can
8 and we can continue to show our appreciation for everything
9 that these parents and students are doing for the district,
10 because we are all going to make mistakes. I will be the
11 first one to misread data, to forget something in the consent
12 order, to have to go remind myself of some of the requirements
13 of the consent order, and ask the lawyers to help me refocus.
14 And so I certainly understand why a member of the DAC would
15 need that assistance as well.

16 And I want to make sure that we are recognizing the
17 significant contribution that these parents and students are
18 making and doing everything we can to help them satisfy their
19 obligations and just their sincere wish to do well by all the
20 stakeholders in the district. So I'm happy to start with
21 anyone who would like to speak to that.

22 MR. PAPE: Your Honor, I would like to speak on
23 behalf of the district team. I think that we have wrestled
24 with that specific issue of how much support is too much
25 support versus autonomy, and it is a difficult issue, and I'm

1 not sure we all necessarily appreciated it in the development
2 of this process years ago. You know, putting it into action,
3 I don't know that that occurred to us, in hindsight.

4 I do think an aspect that would potentially help and
5 help maybe even avoid where there's inadvertent messaging in
6 the superintendent's response that almost seems being more
7 adversarial with the DAC about trying to defend itself in the
8 data is trying to -- and I don't necessarily think formalizing
9 is the right word, and I guess this is also an easy suggestion
10 for me to make, to volunteer someone else on this call more
11 work. Sorry, Dr. Smith. But the superintendent and Dr. Smith
12 and their team -- I know Dr. Smith has extended the -- I don't
13 want to say olive branch; a friendly handshake multiple times,
14 and I don't know -- you know, put the ball in the court of the
15 DAC to decide how best to use someone with his expertise to be
16 able to break down data in a way that lets them have a
17 dialogue. They can certainly draw their own conclusions from
18 what he helps them understand. They certainly do not have to
19 accept -- because he does work for the district. He is a
20 district employee. But we have some of these individuals with
21 expertise that are different than just serving as a liaison.
22 Dr. McNeal has done a great job of just being the liaison in
23 terms of coordinating when they have building needs or things
24 like that.

25 But there's a certain element to, I think,

1 understanding the data that having that twice a year meeting
2 with the superintendent may be a little nerve wracking.
3 I mean, I take that for granted. I meet with the
4 superintendent all the time. Our team does that regularly.
5 Whereas, if you're a parent, you don't have that option. And
6 so it's almost like -- and I don't know that it necessarily
7 has to be a formal change, but if it was almost like an
8 authorization that it is okay to have sit-downs with data with
9 people at the district who are responsible for helping manage
10 that, to work through it, so it's not seen as infringing on
11 their autonomy, but almost authority for them to meet and then
12 draw their own distinctions, so they are not having to work in
13 a vacuum or relearn Excel if they haven't learned it in years
14 in trying to do the -- I don't know how that would look, but
15 just as a conversation starter, I think we have some team
16 members who would much rather not wait to find out that there
17 have been such -- well, we think maybe misunderstandings in
18 the data before coming to the report and then they could have
19 a more effective report where they feel their voice is heard
20 prior to it becoming a written document and we're in this back
21 and forth formal filing that feels almost like litigation and
22 less of a collaboration.

23 THE COURT: Thank you.

24 Who else would like to weigh in?

25 MS. HAMILTON: Your Honor, I appreciate all of your

1 words about the role of the DAC and the importance of us being
2 able to support them while also recognizing their
3 independence, which has been a difficult line to walk over the
4 years.

5 One thing that I would add is that I have found that
6 it has been very beneficial when the parties had opportunities
7 to reach out to the DAC chair to find out if they have any
8 needs for technical assistance or general questions in
9 support. They often do a great job of articulating what their
10 concerns are. And I have also found from year to year that
11 those needs look different. Things that we discovered with
12 this current DAC when we started the school year was that they
13 wanted the initial training to look different than it had from
14 prior years, so instead of doing one long training where we
15 went over all of the Green factors and provided a lot of
16 substantive information, they felt that it would be much more
17 beneficial to talk about more of the ins and outs of what does
18 it mean to be a DAC member and what does that look like in
19 practice, and where we really did a deeper dive into the Green
20 factors. And they've had also other suggestions that they
21 want their meetings to look different and other resources and
22 supports that they would like. So I think the parties, that
23 we can reach out to the current chair the second semester of
24 the school year just to check in and touch base to see how the
25 school year is going.

1 As we continue to build a relationship with this
2 chair, as we had with the prior chair who held that position
3 for many years, we just want to make sure that he knows he is
4 more than welcome to reach out to the parties for that type of
5 assistance while also not being so much communication that it
6 impacts their ability to maintain their independence.

7 THE COURT: One of the suggestions, I believe, in
8 the DAC report -- I apologize for speaking over someone just
9 now -- was moving the selection process for the DAC earlier so
10 that the training that you just mentioned, Ms. Hamilton, can
11 happen over the summer and the DAC feels like it can hit the
12 ground running. You know, we've missed that early -- the
13 first meeting for several years now. Some of that is on me
14 for not getting back to you all when you get me names. I need
15 to do that right away, and any time lost on that is not
16 helpful to the DAC, so that's an area of improvement for me.
17 But if that's something that you all think we could do
18 feasibly, move up the selection process?

19 MS. HAMILTON: The district (inaudible) -- the
20 logistics of what that looks like in terms of getting
21 applications out during the school year. I know right now the
22 application window -- the selection process ends over the
23 summer, so it automatically sets things in course for us not
24 to be able to begin training to do that until the new school
25 year. I think their suggestion makes a lot of sense. I would

1 be curious to hear from the district more about the logistics
2 of how to do that.

3 MR. PAPE: Your Honor, to speak to that, I think
4 that as of right now -- and again this may be one of those
5 hindsight moments. In trying to set it up near the end of the
6 year, it often does run in to graduation, it often runs into
7 soliciting applications, and it's difficult to fault any
8 student or parent who is sort of getting to that mind-set of,
9 hey, I'm wrapping my year up; I'm not looking for the next
10 thing. Moving it up earlier, since we have a lot of the same
11 forms and we have a lot of the same processes, I think it
12 would be fairly easy to move it up a little bit more, maybe
13 mid-semester, so by the end of the year they know what their
14 summertime plans would be. I think we could explore and
15 collaborate with the United States about a decent time frame
16 and propose that back to the Court, and obviously Mr. Debro,
17 and propose that back to the Court. I think it's called for
18 or it's called out specifically in the consent order.

19 THE COURT: It is.

20 MR. PAPE: -- work through to correct that once we
21 came up with an idea. But we are happy to do that, to work
22 with the parties on that.

23 THE COURT: And I would suggest maybe including
24 Mr. Gregory in that conversation to get some feedback and some
25 more specifics from the DAC about how they would envision

1 using that earlier identification of the new DAC members to
2 facilitate some training over the summer.

3 But, yes, if you all are willing to discuss that, I
4 thought that was a helpful suggestion from the DAC, and it
5 would be great to be able to respond specifically to something
6 that they had proposed for us.

7 I did begin to talk over someone else, I think. So
8 who else wanted to speak, please?

9 MR. DEBRO: I don't think anyone else was speaking,
10 but I will add that from where we've come, I would say we have
11 really progressed. The relationship that started out with the
12 DAC and the whole process of trying to find our way started
13 out rocky, but we have evolved and I think we have really
14 advanced, and we've had some challenges over the years, but I
15 think we are moving in the right direction. And we're going
16 to have some changes. We're going to have continued
17 challenges, but I think it's a good check and balance and I
18 think it's a good way to get feedback not only for the Court
19 but also for the district and for the community. So I think
20 it has been very beneficial to have the DAC, even though we've
21 had some past challenges.

22 I like the fact that they are offering these
23 suggestions for us to move forward and for the betterment of
24 this community and this case.

25 THE COURT: All right. Very good. Well, Mr. Pape,

1 you hit the nail on the head. I did feel like when I was
2 reading the district's response to the DAC report that it was
3 an adversarial piece as opposed to a conversation in which
4 we're just sharing the information that we're aware of to fill
5 in the story that was presented to us, and when I think about
6 just what is in the best interest of the district in terms of
7 overall satisfaction with the district and just healthy
8 relationships, that seems a better way to approach it. And
9 when I think about the legal obligation of good faith, I think
10 a tone that's too adversarial has the ability to chill
11 communication, because if somebody thinks as soon as I tell
12 you what I think, you're going to slap me down and tell me I
13 absolutely disagree with this, that, unfortunately, has the
14 potential to dissuade open and honest communication. Just
15 like Ms. Finley in her response talked about how important it
16 is not to have teachers underreport discipline because they
17 are afraid of having some bad consequence come from that.

18 We just always need to be aware in our
19 communication, me included, that when we sometimes express our
20 point of view in an adversarial way, we may impact our ability
21 to get information we need from people who are trying to share
22 it for productive purpose.

23 So I thank you for you finding the word, Mr. Pape,
24 and your recognition that that's what everybody is working
25 toward here.

1 Is there any concluding remark that -- let me start
2 with you, Mr. Debro. Any concluding remarks from you today?

3 MR. DEBRO: Nothing further, Your Honor.

4 THE COURT: Anything for the United States?

5 MS. HAMILTON: We just thank the Court for making
6 time to have this today and to provide a venue for the parties
7 to provide an update, and we also appreciate the work of the
8 DAC, especially in light of the pandemic. They produced two
9 reports that provided very helpful information under very
10 challenging circumstances.

11 THE COURT: Yes, ma'am.

12 Mr. Pape?

13 MR. PAPE: Yes, Your Honor. On behalf of the team
14 and the district, I want to say thank you, and, I guess, if
15 it's okay with the Court, give the superintendent an
16 opportunity if she wants to say anything else. You all have
17 heard quite a bit from me today.

18 THE COURT: Of course.

19 SUPERINTENDENT FINLEY: To the DOJ attorneys and
20 Mr. Debro, thank you for letting us be here today. And I love
21 your idea, Judge Haikala, of the collaborative approach. I'm
22 a former school counselor and that's all I know, and so I
23 would be remiss if I didn't apologize, because that is not the
24 tone I use and I wouldn't want to make it adversarial. So
25 moving forward, I would even love to be more involved, and I

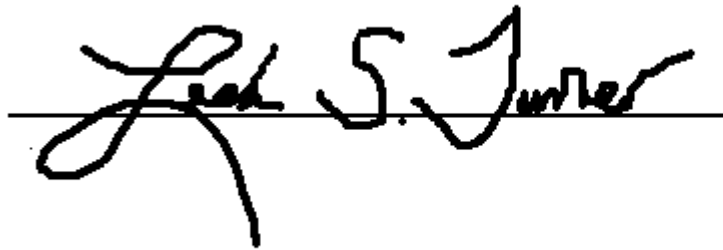
1 don't know if I can because I know it's written in the consent
2 order, but I miss being a liaison of the DAC. And they do
3 bring forth a lot of great ideas. I'm actually working with
4 the DAC students now. I would love to be more involved if
5 it's possible. But, again, thank you, and I look forward to
6 being more collaborative.

7 THE COURT: Terrific. Well, thank you all. The
8 whole collection of people we have here who have given so much
9 time this afternoon is a great team. Everybody has their job
10 to do, but everyone has done it so well today. So thank you
11 for that. So take care. Stay well.

12 (End of proceedings.)
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C E R T I F I C A T I O N

I hereby certify that the foregoing transcript
in the above-styled cause is true and accurate.

A handwritten signature in black ink, reading "Leah S. Turner", is written over a horizontal line. The signature is stylized, with the first letters of each name being capitalized and prominent.

Leah S. Turner, RMR, CRR
Federal Official Court Reporter